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MATT BLUNT

SECRETARY OF STATE

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the web site at <http://www.sos.state.mo.us/adrules/pubsched.asp>

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 26, *Missouri Register*, page 27. The approved short form of citation is 26 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—Cite material in the RSMo by date of legislative action. The note in parentheses gives the original and amended legislative history. The Office of the Revisor of Statutes recognizes that this practice gives users a concise legislative history.



FROM THIS ANGLE

Welcome Back Secretary Blunt!!

We are pleased to announce our boss, Matt Blunt, has returned from his active service with the United States Naval Reserves. Shortly after the terrorist acts of September 11th, Secretary Blunt was mobilized and sent to a security detail in the United Kingdom. He returned to the office on Tuesday, April 16th and we are very happy to have him back. We are very proud of his service to our Country while simultaneously continuing to serve as our Secretary of State. It is great, however, to have him back in Missouri.

New Website

If you have not already done so, please visit our new and improved website — <http://www.sos.state.mo.us/>. We think you will agree our new site is much easier to navigate and has a wealth of information — all right at your fingertips.

Spring Cleaning — Rules cleaning, that is

With the beautiful spring weather, we seem to all get the urge to spring clean, reorganize, straighten, etc. When you commence to do your spring cleaning — remember your rules . . . do they need to be revised, amended . . . do old out-of-date forms need to be removed . . . do you need to refer your readers to your website?


As you commence to spring clean your *rules*, let us know if you need assistance from our office.

Topics? What topics?

If there is a specific topic you would like to see discussed in this column as it pertains to rulemakings, please let us know. We know many of you have questions regarding procedure, rule packet, electronic copy, etc.,

and ask them on a periodic basis — but if there is a specific topic you would like to see discussed, please e-mail us at rules@sosmail.state.mo.us and we will be happy to address your specific topic.

As always, please call us at 751-4015 or e-mail us at the above address if we may be of assistance to you in the rulemaking process.

A handwritten signature in cursive script, appearing to read "Lynne".

Lynne C. Angle
Director, Administrative Rules

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rule-making process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE Division 30—Animal Health Chapter 2—Health Requirements for Movement of Livestock, Poultry and Exotic Animals

PROPOSED AMENDMENT

2 CSR 30-2.010 Health Requirements Governing the Admission of Livestock, Poultry and Exotic Animals Entering Missouri. The director is amending subsection (13)(D).

PURPOSE: This amendment changes the requirements for captive cervids entering the state of Missouri to protect Missouri's livestock and wildlife from importation of diseases that potentially pose a threat to the public health, safety and welfare.

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material, which is incorporated by reference as a portion of this rule, would be unduly cumbersome or expensive. Therefore, the material, which is so incorporated, is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material. The publication for **Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999**, can be accessed at www.aphis.usda.gov/vs/disease_eradication.htm and **Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998**, can be accessed at the USDA government website at www.aphis.usda.gov/oa/pubs/umr.html.*

(13) Miscellaneous and Exotic Animals. All exotic animals must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common and scientific name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration and the permanent tag number, brand or tattoo identification.

(D) Captive cervids, prior to entering Missouri, must have an interstate shipping permit issued by the state veterinarian's office and a Certificate of Veterinary Inspection. *[Elk and deer may] Captive cervids that enter Missouri must be in compliance with [the Cervidae Uniform Methods and Rules for Brucellosis and the Cervidae Uniform Methods and Rules for Tuberculosis] the guidelines as incorporated by reference to the Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999 and Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998. [Elk, red deer, reindeer, fallow deer and sika deer six (6) months of age and over must have one (1) approved negative brucellosis test within thirty (30) days prior to shipment. Cervidae originating from certified brucellosis-free herds may enter on the current herd number and test date. All cervidae six (6) months of age and over must have a negative tuberculosis test using the single cervical method or BTB test within ninety (90) days prior to shipment. Cervidae originating from accredited TB cervidae herds may enter on the current herd number and test date.]*

1. All sexually intact animals six (6) months of age or older, not under quarantine and not affected with brucellosis, must test negative for brucellosis within thirty (30) days prior to movement, except:

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may enter on herd status without additional testing provided the certified herd number and current test date is shown on the Certificate of Veterinary Inspection;

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age or older must test negative for brucellosis within ninety (90) days prior to interstate movement provided current test date is shown on the Certificate of Veterinary Inspection.

2. Captive cervids not known to be affected with or exposed to tuberculosis and not in a status herd, as defined in the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to movement. Both negative test dates must be listed on the Certificate of Veterinary Inspection.

Animals must have been isolated from other captive cervids during the testing period.

3. Movement from status herds.

A. Monitored or qualified herd—captive cervids originating from monitored or qualified tuberculosis cervid herds must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days of movement. Herd number and current test date must be shown on the Certificate of Veterinary Inspection.

B. Accredited herd—captive cervids originating from accredited tuberculosis-free cervid herds may enter on herd status without additional testing provided the accredited herd number and current test date is shown on the Certificate of Veterinary Inspection.

4. Captive cervids from an area that has been reported as a chronic wasting disease (CWD) endemic area or any cervid that has been in an endemic area in the last five (5) years will not be allowed to enter Missouri.

5. Captive cervid from a non-endemic area of a state that has reported confirmed chronic wasting disease (CWD) cases must have participated in a surveillance program for at least three (3) years prior to entering Missouri.

*AUTHORITY: section 267.645, RSMo [1994] 2000. This version of rule filed Jan. 24, 1975, effective Feb. 3, 1975. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Nov. 2, 2001, effective Nov. 12, 2001, expires May 10, 2002. Amended: Filed April 10, 2002.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment may or may not cost private entities more than five hundred (\$500) depending on the number of cervids entering Missouri.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Animal Health, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	2 CSR 30-2.010 Health Requirements Governing the Admission of Livestock, Poultry and Exotic Animals Entering Missouri.
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Unknown	Any individual who brings captive cervids into the state of Missouri.	Estimated cost is \$65 per animal

III. WORKSHEET

According to the proposed amendment, any captive cervid that enter Missouri must have one (1) brucellosis test and two (2) tuberculosis (TB) tests and a health certificate.

The costs to the individual bringing the animal into Missouri would include one (1) brucellosis test, two (2) TB tests plus having a current health certificate. There may be an additional charge if the accredited veterinarian has to make a trip to the farm in order to test the animals. In many cases, the veterinarian does test the animals on the farm because of space and additional equipment that may be needed for captive cervids. The costs of the services used in this fiscal note are based upon average charges by veterinarians in this state and if the accredited veterinarian has a working relationship with the producer, the cost of the services may be incorporated with previous work or waived

Services:

Brucellosis test	\$10.00
Tuberculosis tests	\$10.00 (for one)
Farm Call	\$25.00
Health Certificate	\$10.00

For one (1) captive cervid to enter Missouri the average cost may be:

1 brucellosis test -	-\$10.00
2 TB tests	- \$20.00
Farm call	- \$25.00
Health Certificate -	<u>\$10.00</u>
Total:	\$65.00

IV. ASSUMPTIONS

Current regulations require one (1) brucellosis test, one (1) TB test and a health certificate. The only additional expense this proposed amendment is requiring is the second TB test. The number of captive cervids that enter Missouri is unknown and without knowing the exact number involved, the total cost of implementation of an additional test cannot be determined. The charges used in this fiscal note are based on average charges of accredited veterinarians in the state of Missouri, which vary from state to state and from veterinarian to veterinarian.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 2—Health Requirements for Movement of
Livestock, Poultry and Exotic Animals**

PROPOSED AMENDMENT

2 CSR 30-2.040 Animal Health Requirements for Exhibition.
The director is amending subsection (9)(D).

PURPOSE: This amendment changes captive cervid requirements for exhibition to protect Missouri livestock and wildlife from importation of diseases that potentially pose a threat to the public health, safety and welfare.

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material, which is incorporated by reference as a portion of this rule, would be unduly cumbersome or expensive. Therefore, the material, which is so incorporated, is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material. The publication for *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, can be accessed at www.aphis.usda.gov/vs/disease/eradication.htm and *Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998*, can be accessed at the USDA government website at www.aphis.usda.gov/oa/pubs/umr.html.*

(9) Miscellaneous and Exotic Animals. All exotic animals must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common and scientific name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration and the permanent tag number, brand or tattoo identification.

(D) [Elk and deer may exhibit in Missouri in compliance with the *Cervidae Uniform Methods and Rules for Brucellosis* and the *Cervidae Uniform Methods and Rules for Tuberculosis*. Elk, red deer, reindeer, fallow deer and sika deer six (6) months of age and over must have one (1) approved negative brucellosis test within thirty (30) days prior to exhibition. Cervidae originating from certified brucellosis-free herds may exhibit on the current herd number and test date. All cervidae six (6) months of age and over must have a negative tuberculosis test using the single cervical method or BTB test within ninety (90) days prior to exhibition. Cervidae originating from accredited TB cervidae herds may exhibit on the current herd number and test date.] Captive cervids, prior to exhibiting in Missouri, must have an interstate shipping permit issued by the state veterinarian's office and a Certificate of Veterinary Inspection. Captive cervids that enter Missouri for exhibition must be in compliance with the guidelines as incorporated by reference to the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999* and *Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998*.

1. All sexually intact animals six (6) months of age or older, not under quarantine and not affected with brucellosis, must test negative for brucellosis within thirty (30) days prior to exhibition, except:

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may exhibit on herd status without additional testing provided the certified herd number and current test date is shown on the Certificate of Veterinary Inspection.

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age or older must test negative for brucellosis within ninety (90) days prior to exhibition provided current test date is shown on the Certificate of Veterinary Inspection.

2. Captive cervids not known to be affected with or exposed to tuberculosis and not in a status herd, as defined in the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method prior to exhibition. The second test must be within ninety (90) days prior to exhibition. Both negative test dates must be listed on the Certificate of Veterinary Inspection. Animals must have been isolated from other captive cervids during the testing period.

3. Movement from status herds.

A. Monitored or qualified herd—captive cervids originating from monitored or qualified tuberculosis cervid herds must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days of exhibition. Herd number and current test date must be shown on the Certificate of Veterinary Inspection.

B. Accredited—captive cervids originating from accredited tuberculosis-free cervid herds may exhibit on herd status without additional testing provided the accredited herd number and current test date is shown on the Certificate of Veterinary Inspection.

4. Captive cervids from an area that has been reported as a chronic wasting disease (CWD) endemic area or any cervid that has been in an endemic area in the last five (5) years will not be allowed to exhibit in Missouri.

5. Captive cervids from an area that has been reported as a chronic wasting disease (CWD) endemic area or any cervid that has been in an endemic area in the last five (5) years will not be allowed to enter Missouri.

AUTHORITY: section 267.645, RSMo [1994] 2000. Emergency rule filed June 28, 1977, effective July 8, 1977, expired Nov. 5, 1977. Original rule filed June 28, 1977, effective Oct. 13, 1977. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Nov. 12, 2001, expires May 10, 2002. Amended: Filed April 10, 2002.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment may or may not cost private entities more than five hundred dollars (\$500) depending on the number of captive cervids entering Missouri.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Animal Health, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

FISCAL NOTE PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	2 CSR 30-2.040 Animal Health Requirements for Exhibition.
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Unknown	Any individual who brings captive cervids into the state of Missouri.	Estimated cost is \$65 per animal

III. WORKSHEET

According to the proposed amendment, any captive cervid that enter Missouri for exhibition must have one (1) brucellosis test, two (2) tuberculosis tests and a health certificate.

The costs to the individual bringing the animal into Missouri for exhibition would include one (1) brucellosis test, two (2) TB tests plus having a current health certificate. There may be an additional charge if the accredited veterinarian has to make a trip to the farm in order to test the animals. In many cases, the veterinarian does test the animals on the farm because of space and additional equipment that may be needed for captive cervids. The costs of the services used in this fiscal note are based upon average charges by veterinarians in this state and if the accredited veterinarian has a working relationship with the producer, the cost of the services may be incorporated with previous work or waived.

Services:

Brucellosis test	\$10.00
Tuberculosis tests	\$10.00 (for one)
Farm Call	\$25.00
Health Certificate	\$10.00

For one (1) captive cervid to enter Missouri for exhibition the average cost may be:

1 brucellosis test -	\$10.00
2 TB tests	- \$20.00
Farm call	- \$25.00
Health Certificate -	<u>\$10.00</u>
Total:	\$65.00

IV. ASSUMPTIONS

Current regulations require one (1) brucellosis test, one (1) TB test and a health certificate. The only additional expense this proposed amendment is requiring on captive cervids entering Missouri for exhibition is the second tuberculosis test. The number of cervids that enter Missouri for exhibition is unknown and without knowing the exact number involved, the total cost of implementation of an additional test cannot be determined. The charges used in this fiscal note are based on average charges of accredited veterinarians in the state of Missouri, which vary from state to state and veterinarian to veterinarian.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 6—Livestock Markets**

PROPOSED AMENDMENT

2 CSR 30-6.020 Duties and Facilities of the Market/Sale Veterinarian. The director is amending subsection (7)(D).

PURPOSE: This amendment changes the requirements of captive cervids sold through a licensed livestock market/sale in the state of Missouri to protect Missouri livestock and wildlife from importation of diseases that potentially pose a threat to the public health, safety and welfare.

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material, which is incorporated by reference as a portion of this rule, would be unduly cumbersome or expensive. Therefore, the material, which is so incorporated, is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material. The publication for *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, can be accessed at www.aphis.usda.gov/vs/disease/eradication.htm and *Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998*, can be accessed at the USDA government website at www.aphis.usda.gov/oa/pubs/umr.html.*

(7) Miscellaneous and Exotic Animals. All exotic animals presented for exchange, barter, lease or sale at a licensed livestock market/sale must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common and scientific name/s(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration and the permanent tag number, brand or tattoo identification.

(D) *[Elk and deer may be sold through a market/sale in Missouri in compliance with the Cervidae Uniform Methods and Rules for Brucellosis and the Cervidae Uniform Methods and Rules for Tuberculosis. Elk, red deer, reindeer, fallow deer and sika deer six (6) months of age and over must have one (1) approved negative brucellosis test within thirty (30) days prior to arrival at the market/sale. Cervidae originating from certified brucellosis-free herds may be sold through a market/sale on the current herd number and test date. All cervidae six (6) months of age and over must have a negative tuberculosis test using the single cervical method or BTB test within ninety (90) days prior to arrival at the market/sale. Cervidae originating from accredited TB cervidae herds may be sold through a market/sale on the current herd number and test date.]* Captive cervids from out-of-state sold through a market/sale in Missouri must have an interstate shipping permit issued by the state veterinarian's office and a Certificate of Veterinary Inspection. Captive cervids from out-of-state that arrive at a market/sale must be in compliance with the guidelines as incorporated by reference to the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999* and *Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998*. Movement of Missouri origin captive cervids must be in compliance with Missouri's intrastate movement regulations.

1. All sexually intact animals six (6) months of age or older, not under quarantine and not affected with brucellosis,

must test negative for brucellosis within thirty (30) days prior to arrival at the market/sale, except:

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may be sold through a market/sale on the current herd number and test date;

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age or older must test negative for brucellosis within ninety (90) days prior to arrival at the market/sale.

2. Captive cervids not known to be affected with or exposed to tuberculosis, and not in a status herd as defined in the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to arrival at the market/sale.

3. Movement from status herds.

A. Monitored or qualified herd—captive cervids originating from monitored or qualified tuberculosis cervid herds must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.

B. Accredited herd—captive cervids originating from accredited tuberculosis-free cervid herds may be sold through a market/sale on the current herd number and test date.

4. Captive cervids from an area that has been reported as a chronic wasting disease (CWD) endemic area or any cervid that has been in an endemic area in the last five (5) years will not be allowed to move through a Missouri livestock market/sale.

5. Captive cervid from a non-endemic area of a state that has reported confirmed chronic wasting disease (CWD) cases must have participated in a surveillance program for at least three (3) years prior to moving through a Missouri livestock market/sale.

AUTHORITY: section 277.160, RSMo Supp. [1998] 2000. Original rule filed June 15, 1990, effective Dec. 31, 1990. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Nov. 2, 2001, effective Nov. 12, 2001, expires May 10, 2002. Amended: Filed April 10, 2002.

PUBLIC COST: This proposed amendment will cost the state agencies or political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment may or may not cost private entities more than five hundred dollars (\$500) depending on the number of captive cervids entering Missouri.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Animal Health, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of the notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	2 CSR 30-6.020 Duties and Facilities of the Market/Sale Veterinarian.
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Unknown	Any individual who brings captive cervids into the state of Missouri.	Estimated cost is \$65 per animal

III. WORKSHEET

According to the proposed amendment, any captive cervid that arrive from out-of-state at a Missouri market/sale must have one (1) brucellosis test, two (2) tuberculosis (TB) tests and a health certificate.

The costs to the individual bringing the animal to the market/sale would include one (1) brucellosis test, two (2) TB tests plus having a current health certificate. There may be an additional charge if the accredited veterinarian has to make a trip to the farm in order to test the animals. In many cases, the veterinarian does test the animals on the farm because of space and additional equipment that may be needed for captive cervids. The costs of the services used in this fiscal note are based upon average charges by veterinarians in this state and if the accredited veterinarian has a working relationship with the producer, the cost of the services may be reduced or waived.

Services:

Brucellosis test	\$10.00
Tuberculosis tests	\$10.00 (for one)
Farm Call	\$25.00
Health Certificate	\$10.00

For one (1) captive cervid to enter Missouri the average cost may be:

1 brucellosis test -	-\$10.00
2 TB tests	- \$20.00
Farm call	- \$25.00
Health Certificate -	<u>\$10.00</u>
Total:	\$65.00

IV. ASSUMPTIONS

Current regulations require one (1) brucellosis test, one (1) TB test and a health certificate. The only additional expense this proposed amendment is requiring on captive cervids arriving at a market/sale in Missouri is the second tuberculosis test. The number of captive cervids that enter Missouri and go through a market/sale is unknown and without knowing the exact number involved, the total cost of implementation of an additional test cannot be determined. The charges used in this fiscal note are based on average charges of accredited veterinarians in the state of Missouri which vary from state to state and from veterinarian to veterinarian

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.075 Intervention. The commission is amending sections (6) and (7).

*PURPOSE: The purpose of this amendment is to clarify the proceedings applicable to **amici curiae** and to impose on intervenors an obligation to file a responsive pleading.*

(6) Any person not a party to a case may petition the commission for leave to file a brief as an *amicus curiae*. **The petition for leave must state the petitioner's interest in the matter and explain why an *amicus* brief is desirable and how the matters asserted are relevant to the determination of the case. The brief may be submitted simultaneously with the petition. Unless otherwise ordered by the commission, the brief must be filed no later than seven (7) days after the parties have filed their initial briefs. If leave to file a brief as an *amicus curiae* is granted, the brief shall be deemed filed on the date submitted. An *amicus curiae* may not file a reply brief.**

(7) Any party whose application to intervene is granted shall, within thirty (30) days thereafter or such other period as the commission may order, file a responsive pleading to the application, complaint or tariff that is the subject of the contested case, specifically admitting or denying each fact asserted therein.

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 26, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Comments should refer to Case No. AX-2002-157 and be filed with an original and six (6) copies. A public hearing is scheduled for Monday, June 10, 2002, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.*

SPECIAL NEEDS: *This hearing will be held in a building which meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this public hearing, please call the Public Service Commission's Hotline at 1 (800) 392-4211 (voice) or 1 (800) 829-7541 (TDD) prior to the hearing.*

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.115 [Nonunanimous] Stipulations and Agreements. The commission is amending sections (1) and (2) and deleting section (3).

PURPOSE: The purpose of this amendment is to clarify the proceedings applicable to, and the effects of, stipulations and agreements in commission practice.

(1) *[A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all parties and where one (1) or more parties requests a hearing of one (1) or more issues. If no party requests a hearing, the commission may treat the stipulation and agreement as a unanimous stipulation and agreement.]* **Stipulations and Agreements.**

(A) The parties may at any time file a stipulation and agreement as a proposed resolution of all or any part of a contested case. Any such stipulation and agreement must contain stipulated facts sufficient to support the resolution proposed by the parties. A stipulation and agreement shall be filed as a pleading.

(B) The commission may resolve all or any part of a contested case on the basis of a stipulation and agreement.

(2) *[If a hearing is requested, the commission shall grant the request.]* **Nonunanimous Stipulations and Agreements.**

(A) A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all of the parties.

(B) Each party shall have seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection to the nonunanimous stipulation and agreement. Failure to file a timely objection shall constitute a full waiver of that party's right to a hearing. A conditional assent to a nonunanimous stipulation and agreement shall be regarded as a non-conditional assent and not as an objection.

(C) If no party timely objects to a nonunanimous stipulation and agreement, the commission may treat the nonunanimous stipulation and agreement as a unanimous stipulation and agreement.

(D) A nonunanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position.

(E) If a nonunanimous stipulation and agreement resolves only issues as to which a party has stated no position and filed no testimony, such party need not join in the nonunanimous stipulation and agreement for it to be considered unanimous and an objection filed by such party shall have no effect.

[[3] A nonunanimous stipulation and agreement shall be filed as a pleading. Each party shall have seven (7) days from the filing of the nonunanimous stipulation and agreement to file a request for a hearing. Failure to file a timely request for hearing shall constitute a full waiver of that party's right to a hearing.]

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed June 9, 1987, effective Sept 15, 1987. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 26, 2002.

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Comments should refer to Case No. AX-2002-158 and be filed with an original and six (6) copies. A public hearing is scheduled for Monday, June 10, 2002, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.*

SPECIAL NEEDS: *This hearing will be held in a building which meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this public hearing, please call the Public Service Commission's Hotline at 1 (800) 392-4211 (voice) or 1 (800) 829-7541 (TDD) prior to the hearing.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 2—Practice and Procedure

PROPOSED RULE

4 CSR 240-2.117 Summary Disposition of Contested Cases

PURPOSE: *This rule provides for disposition of a contested case by disposition in the nature of summary judgment or judgment on the pleadings.*

(1) Summary Determination.

(A) Any party may by motion, with or without supporting affidavits, seek disposition of all or any part of a contested case by summary determination at any time after the filing of a responsive pleading, if there is a respondent, or at any time after the close of the intervention period. However, a motion for summary determination shall not be filed less than twenty (20) days prior to the hearing except by leave of the commission.

(B) Motions for summary determination shall state with particularity in separately numbered paragraphs each material fact as to which the movant claims there is no genuine issue, with specific references to the pleadings, testimony, discovery, or affidavits that demonstrate the lack of a genuine issue as to such facts. Each motion for summary determination shall have attached thereto a separate legal memorandum explaining why summary determination should be granted and testimony, discovery or affidavits not previously filed that are relied on in the motion. The movant shall serve the motion for summary determination upon all other parties not later than the date upon which the motion is filed with the commission.

(C) Not more than ten (10) days after a motion for summary determination is served, any party may file and serve on all parties a response in opposition to the motion for summary determination. Attached thereto shall be any testimony, discovery or affidavits not previously filed that are relied on in the response. The response shall admit or deny each of movant's factual statements in numbered paragraphs corresponding to the numbered paragraphs in the motion for summary determination, shall state the reason for each denial, shall set out each additional material fact

that remains in dispute, and shall support each factual assertion with specific references to the pleadings, testimony, discovery, or affidavits. The response may also have attached thereto a legal memorandum explaining why summary determination should not be granted.

(D) For good cause shown, the commission may continue the motion for summary determination for a reasonable time to allow an opposing party to conduct such discovery as is necessary to permit a response to the motion for summary determination.

(E) The commission shall grant the motion for summary determination if the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact and that any party is entitled to relief as a matter of law as to all or any part of the contested case. The commission may order summary determination against the moving party. An order granting summary determination shall include findings of fact and conclusions of law.

(F) If the commission grants a motion for summary determination, but does not dispose thereby of the entire contested case, it shall hold an evidentiary hearing to resolve the remaining issues. Those facts found in the order granting partial summary determination shall be established for purposes of the hearing.

(G) The commission may hear oral argument on a motion for summary determination.

(2) Determination on the Pleadings—On its own motion or on the motion of any party, the commission may dispose of all or any part of a contested case on the pleadings whenever such disposition is not otherwise contrary to law.

AUTHORITY: *section 386.410, RSMo 2000. Original rule filed March 26, 2002.*

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. Comments should refer to Case No. AX-2002-159 and be filed with an original and six (6) copies. A public hearing is scheduled for Monday, June 10, 2002, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.*

SPECIAL NEEDS: *This hearing will be held in a building which meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this public hearing, please call the Public Service Commission's Hotline at 1 (800) 392-4211 (voice) or 1 (800) 829-7541 (TDD) prior to the hearing.*

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 50—Division of [Instruction] School Improvement

Chapter 340—[Supervision of Instruction] School Improvement and Accreditation

PROPOSED AMENDMENT

5 CSR 50-340.030 *[Policies and Standards for School Media and School Learning Resources Centers] Standards for Missouri School Library Media Centers.* The State Board of Education is amending the title, Purpose and section (1).

PURPOSE: *This proposed amendment is to update the guidelines for library media centers.*

PURPOSE: *The Division of [Instruction] School Improvement in the Department of Elementary and Secondary Education [establishes standards for the accreditation and classification of public school districts. This rule establishes the standards for public school districts' media and school learning resources centers] provides guidelines for public school districts, media, and school library media centers.*

(1) *[The media standards for school learning resources centers set forth the general guidelines for the establishment and operation of centers; set standards for various types of media, materials and equipment school districts must have available to meet the classification standards; and set a recommended expenditure per pupil to maintain and operate learning resources centers.] The Standards for Missouri School Library Media Centers establish guidelines for a variety of print and nonprint resources needed to support the teaching and learning of staff and students. The standards also recommend facility space and expenditures per pupil to maintain and operate library media centers.*

AUTHORITY: *section 161.092, RSMo [1986] 2000. Original rule filed Nov. 5, 1969, effective July 1, 1970. Rescinded and readopted: Filed Oct. 15, 1980, effective Jan. 15, 1981. Amended: Filed March 29, 2002.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, ATTN: Lisa Walters, Library Media and Technology Consultant, Curriculum Services, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Division of School Improvement
Chapter 340—School Improvement and Accreditation**

PROPOSED AMENDMENT

5 CSR 50-340.110 *Policies and Standards Relating to Academically Deficient Schools.* The State Board of Education is amending the Purpose and sections (1), (2) and (3).

PURPOSE: *This proposed amendment clarifies definitions and reflects the Department of Elementary and Secondary Education's ability to identify, support and assist academically deficient schools.*

PURPOSE: *This rule establishes the criteria and procedures to be used to identify academically deficient schools and sets the stan-*

dards to be used for an educational audit [in order to implement section 160.538, RSMo].

(1) For the purposes of this rule—/—:

(A) A “school” shall mean a grouping of grade levels reported by a school district under a building number used for reporting school data to the Department of Elementary and Secondary Education (DESE). A physical structure may contain more than one (1) “school.” A school designated as an elementary school, a middle school, a junior high school or a high school and assigned a number by *[the department]* DESE shall be included in the listing of schools subject to this rule;

(B) “Concerned school” means any school which *[meets the criteria in subsections (2)(A) and (2)(B)]* **has thirty percent (30%) or more students in the Step 1 and Progressing levels** using the results of the Missouri Assessment Program (MAP)/, *the assessment system developed pursuant to the provisions of section 160.518, RSMo. Only schools containing one (1) or more of the assessed grade levels shall be considered as a concerned school];*

(C) “State-determined academically deficient school” shall mean a concerned school whose MAP results for two (2) consecutive testing years place the school in the lowest *[fifty (50)]* **twenty (20)** schools when considering the percent of students who score in Step 1 and Progressing levels on the MAP and who are *[identified as]* **declared** academically deficient by the State Board of Education **(the board)**;

(D) “Locally determined academically deficient school” shall mean a school in a district whose graduation rate is below sixty-five percent (65%) as defined in *[section 160.011, RSMo,]* **state law that meets the [fifteen] thirty percent [(15%)] (30%) or more students in the Step 1 and Progressing levels on the MAP [criteria set in subsection (2)(B)]** and is determined to be academically deficient by the local board of education;

(2) Determination of academically deficient schools by the state **[—] shall be as follows:**

[(A) The list of potential concerned schools will first be made by identifying all schools in K–12 districts whose average graduation rate for the most recent three (3) years is lower than one (1) standard deviation below the mean graduation rate for all K–12 districts for the most recent three (3) years in addition to all schools in K–8 districts;]

[(B)] (A) Concerned schools will be those *[from subsection (2)(A)]* that have *[fifteen] thirty percent [(15%)] (30%)* or more students in Step 1 and Progressing levels using the MAP results. This percent will be determined by adding the numbers of students scoring at the Step 1 and Progressing levels in each subject area assessed in the school for the most recent two (2) years. That sum will be divided by the corresponding sum of the “reportable students” on the same MAP assessments administered in that school, and will be stated as a percent, carried to four (4) places;

[(C)] (B) Each year, the lowest *[fifty (50) concerned]* **twenty (20) performing schools (excluding academically deficient schools)** will be considered for an educational audit. The lowest *[fifty (50)]* **twenty (20)** schools will be determined by ranking of the percent of students scoring in Step 1 and Progressing levels as determined by applying the criteria *[in subsection (2)(B)]* above. No more than five (5) schools in one (1) school district shall be identified for an audit in any one (1) year; *therefore, if five (5) schools are identified from one (1) district prior to identifying a total of fifty (50) schools, all other schools from that district will be removed from consideration and the next lowest schools from the remaining list will be identified until the total is fifty (50)].* Schools identified as academically deficient in a single district shall not exceed ten (10). At no time can there be more than a total of *[one hundred (100)]* **fifty**

(50) schools either identified for an audit team **visit** or awaiting the second audit team visit;

[(D)] (C) Within sixty (60) days of the identification of a concerned school, the [State Board of Education] board shall appoint an audit team of at least ten (10) people as described in [section 160.538.2(4), RSMo] state law, and designate the chairperson of the committee for any school identified in the lowest [fifty (50)] twenty (20) as determined [by subsections (2)(A), (B) and (C)] above. A [Department of Elementary and Secondary Education] DESE state supervisor cannot be on a team relating to an academically deficient school in a school district which she/he supervises;

[(E)] (D) If, after considering relevant information and data provided by the school, the audit team finds that the school is an academically deficient school, the audit team shall determine the factors that contributed to the lack of student achievement which resulted in that finding using research based educational practices and the Missouri School Improvement Program (MSIP) Performance Standards. The audit team shall report the factors and the findings to the [State Board of Education] board within one hundred twenty (120) days of its appointment. An audit team which finds a reasonable explanation for the low state assessment scores shall report such to the [State Board of Education] board;

[(F)] (E) The [State Board of Education] board shall declare any school which an audit team finds academically deficient to be academically deficient. The [State Board of Education] board shall, within sixty (60) days of its decision, appoint a management team of at least ten (10) people [as described in section 160.538.2(4), RSMo] pursuant to state law, for each school so designated. A management team may serve more than one (1) school. No person, except [Department of Elementary and Secondary Education] DESE personnel, can serve on a management team while serving on an audit team for the same school;

[(G)] (F) Within sixty (60) days of their appointment, the management team shall study the audit report and the factors that contribute to the deficiency and shall make recommendations that the team believes are appropriate and necessary in the management and administration of the school to promote increased student achievement.

1. In addition, [W]with consideration given to the financial condition of the district and the school, the team may make recommendations that local resources be more effectively utilized, additional local resources be given to the school, and/or that additional state resources be allocated to the school. The [items outlined in section 160.538.2(5), RSMo, and section 160.538.5, RSMo,] recommendations shall be considered in the recommendations to the [state] board.

2. The [State Board of Education] board shall allocate from the "statewide areas of critical need" money to fund the operation of the management teams and to provide resources specified by the management teams needed in the academically deficient school and approved by the [State Board of Education] board pursuant to [section 160.530.2(1), RSMo] state law; and

[(H)] A school which has received the second visit of the audit team and remains an academically deficient school shall not be counted against the maximum number of schools referred to subsections (1)(C) through (G) or be placed in the listing of schools from lowest to highest pursuant to subsection (2)(C); and]

[(I)] (G) A school shall remain an academically deficient school until the second educational audit is conducted at least two (2) school years after the year of the filing of the management team's report with the [State Board of Education] board and the audit determines the building to be no longer academically deficient and so recommends to the [State Board of Education] board.

1. If a school is found to be still academically deficient after the second educational audit/—/;

A. Then the local board may suspend, after due process, the indefinite contracts of "contributing teachers";

B. The commissioner of education may, upon recommendations of the second audit team, conduct a recall election of board members;

C. The local board may not grant tenure to any probationary teacher until one (1) year after the academically deficient designation is lifted; and

D. The local board may not issue new contracts or renew contracts to either the superintendent or the principal for a period of longer than one (1) year [section 160.538.4, RSMo].

2. The building will remain an academically deficient school until the [State Board of Education] board determines that performance on the MAP has improved sufficiently to warrant the change in status.

3. A school which has received the second visit of the audit team and remains an academically deficient school shall not be counted against the maximum number of schools identified as either concerned or academically deficient schools.

(3) Determination of academically deficient schools by the local board of education:

(A) A local board may designate a school within its jurisdiction as an academically deficient school if that school is a concerned school and [meets the criteria set out in subsection (2)(B)] has thirty percent (30%) or more students in the Step 1 and Progressing levels using the MAP results; and

(B) The local board may suspend or terminate contracts of contributing teachers, principals, and any administrators having responsibility for the school, [subject to sections 168.114 to 168.120, RSMo or section 168.221, RSMo whichever is applicable,] pursuant to state law, and reconstitute the school with new teachers and administrative staff.

AUTHORITY: sections 160.538.1, 160.538.2 and 161.092, RSMo 2000. Previously filed as 5 CSR 30-340.010. Original rule filed Sept. 5, 1996, effective March 30, 1997. Rescinded and readopted: Filed March 22, 1999, effective Sept. 30, 1999. Amended: Filed Sept. 27, 2001, effective May 30, 2002. Amended: Filed March 29, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, Attention: Ginny Vandelight, Assistant Director, School Improvement and Accreditation, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 80—Teacher Quality and Urban Education

Chapter 850—Professional Development

PROPOSED RESCISSION

5 CSR 80-850.010 Administrative Procedures for the Teacher Education Scholarship Program. This rule established requirements for the administration of the Teacher Education Scholarship Program.

PURPOSE: This rule is being rescinded and resubmitted as changes are being proposed.

AUTHORITY: sections 160.276, 160.278, 160.281 and 161.283, RSMo 1986. Original rule filed Dec. 2, 1985, effective Feb. 24, 1986. Amended: Filed Aug. 1, 1989, effective Nov. 27, 1989. Rescinded: Filed March 29, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Department of Elementary and Secondary Education, Attention: Janet Goeller, Director of Teacher Recruitment and Retention, Division of Teacher Quality and Urban Education, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 80—Teacher Quality and Urban Education Chapter 850—Professional Development

PROPOSED RULE

5 CSR 80-850.010 Administrative Procedures for the Teacher Education Scholarship Program

PURPOSE: The Excellence in Education Act of 1985 (sections 160.276, 160.278, 160.281 and 160.283, RSMo) establishes a program to be administered by the Department of Elementary and Secondary Education (DESE) that makes scholarships in the amount of two thousand dollars (\$2,000) per recipient (one-half this amount to be provided by the state and one-half to be provided by participating colleges or universities) available for students who make a commitment to a teaching career and who enroll in a college program leading to certification to teach in the public schools of Missouri. This rule sets forth the qualifications required of applicants for the scholarships, the criteria to be used in selecting scholarship recipients, the conditions that participating colleges or universities must meet, procedures for matching recipients with participating colleges or universities, terms to which a scholarship recipient must agree and repayment procedures to be followed by recipients who fail to fulfill their commitment to become certificated to teach or to teach in the public schools of Missouri.

- (1) Eligible applicants are defined as residents of Missouri who:
 - (A) Are high school seniors, students in a four (4)-year college or university located in Missouri, or students enrolled in a junior or community college located in Missouri;
 - (B) Make a commitment to pursue an approved teacher education program and enroll as full-time students in a four (4)-year college or university located in Missouri;
 - (C) Have achieved scores on an accepted nationally-normed test of academic ability, such as the Scholastic Aptitude Test (SAT), the American College Test (ACT) or the School-College Ability Test (SCAT), which place them at or above the eighty-fifth percentile; or have achieved a high school grade point average which ranks them in the upper fifteen percent (15%) of their high school graduating class or as calculated at the end of the sixth semester; and

- (D) Meet the requirements for entry into an approved teacher education program in Missouri.

- (2) Each student wishing to apply for a scholarship shall submit an application to the Department of Elementary and Secondary Education (DESE) in a form required by DESE by February 15 in order to be considered for the award of a scholarship for the fall term.

- (3) Each application shall contain information as may be required to enable DESE to select recipients under the provisions of this rule.

- (4) Each applicant will be notified by April 1 whether the applicant has or has not been selected as a recipient.

- (5) Recipients will be selected from the group of eligible applicants on the basis of each applicant's level of performance in the following areas:

- (A) Participation in school and community activities;
- (B) Demonstrated leadership abilities;
- (C) Effective interpersonal skills;
- (D) Wide range of interest;
- (E) Career interest in teaching; and
- (F) Effective communication skills.

- (6) Annually, DESE shall appoint a selection committee whose assignment shall be to rank the eligible applicants on the basis of the criteria listed above in accordance with rating scales developed by DESE. The list of ranked applicants shall be used in assigning each recipient to the college or university of the applicant's choice.

- (7) In the event that there are more eligible applicants than can be granted scholarships because insufficient funds have been appropriated, scholarships shall be awarded in sequence according to the rank order of the eligible applicants.

- (8) In the event that a designated recipient declines to accept a scholarship, the scholarship shall be offered to the next highest ranked eligible applicant, if any.

- (9) After recipients have been selected in accordance with the criteria listed in this rule, each recipient will be matched, in rank order, with the applicant's first choice of college or university until all openings at a college or university have been filled; after that, recipients who have designated that college or university as first choice will be matched in rank order with openings at colleges and universities that they indicated as second or third choice, respectively.

- (10) DESE shall notify each participating college or university of the names and addresses of scholarship recipients who have been matched with that institution.

- (11) Following notification that the applicant has been selected to receive a scholarship, the applicant shall respond to DESE to accept or decline the scholarship no later than April 15.

- (12) After a recipient has completed admission and registration procedures at the matched college or university and is ready to attend class at the beginning of the fall semester of the program year (fiscal year), the financial aid officer or scholarship awards officer shall give the recipient a check from the state in the amount of five hundred dollars (\$500) and a check from the college or university in the amount of five hundred dollars (\$500), both checks made payable to the recipient (or the recipient and parent or guardian, if the recipient is under eighteen (18) years of age). At the beginning of the spring semester of the program year (fiscal year), a similar procedure shall occur.

(13) On the two (2) occasions, at the beginning of the first and second semesters after the recipient has completed all enrollment requirements and is ready to attend class and when the checks from the state and the college or university are delivered to the student, the recipient (and parents or guardians, if the recipient is under eighteen (18) years of age) shall sign a promissory note which obligates the student to fulfill the commitment to be made by recipients and included in this rule, with the provision that funds received under the terms of this rule shall be repaid according to the terms of this rule if the student defaults on the commitments.

(14) Participating colleges or universities must:

- (A) Be located in Missouri;
- (B) Offer a teacher education program approved by DESE;
- (C) Provide matching funds of one thousand dollars (\$1,000) per scholarship recipient to match, dollar for dollar, funds made available by the state;
- (D) Not use state funds for the matching funds;
- (E) Indicate prior to each year of participation, upon the request of DESE, the number of scholarships that will be matched;
- (F) Report annually on October 1, in the form requested by DESE, the status of all scholarship recipients who attended the college or university during preceding years until such time as they graduate or leave the college or university;
- (G) Confirm annually on October 1, in the form requested by DESE, the status of recipients who are currently enrolled as first-time students;
- (H) Report immediately to DESE the name of any enrolled recipient who ceases study leading to teacher certification;
- (I) Agree to pay matching funds to recipients on terms no more restrictive than those established by DESE with regard to the state funds provided to recipients and if they elect to seek repayment, the terms of the repayment schedule shall be no more restrictive than the repayment terms established by the state for students who default; and
- (J) Agree to serve as agent for the state in obtaining notarized signatures of recipients (or of recipients and parents or guardians, if the recipient is under eighteen (18) years of age) on promissory notes which will be sent by DESE to the designated college official along with the payment checks sent for recipients. The college or university agrees to return the signed and notarized promissory notes to DESE.

(15) Before receiving any funds from the state or from a college or university under terms of the Teacher Education Scholarship Program, each designated recipient must agree to the following terms and conditions:

- (A) To enroll in and complete a college program designed to qualify the recipient for a Missouri teaching certificate within five (5) years from the date of receiving funds under the scholarship program (three (3) years in the case of students transferring from a junior or community college);
- (B) To teach on a full-time basis for a period of five (5) years in a Missouri public elementary or secondary school after receiving a teaching certificate;
- (C) To notify DESE annually on October 1, in the form and on the schedule prescribed by DESE, of the applicant's current status as a student during years of college attendance and as a teacher following receipt of teacher certification;
- (D) To repay the scholarship funds received from the state in accordance with terms set forth in this rule if any one (1) of the following events occurs:

1. The recipient ceases study leading to teacher certification for any reason, including, but not limited to:

- A. Change of career goal as evidenced by the nature of courses selected in colleges;
- B. Discontinuance of college attendance;

C. Dismissal, suspension or expulsion from college for any reason; or

D. Enrollment and attendance during any semester in less than twelve (12) semester hours (less than full-time) in a program leading to certification to teach in Missouri public schools, except that nonattendance or enrollment in less than twelve (12) semester hours during the summer term shall not affect the status of the recipient;

2. The recipient fails to be hired for or to accept a full-time teaching position in a Missouri public school within ten (10) months of receiving certification to teach in Missouri public schools; or

3. The recipient fails to teach on a full-time basis for a period of five (5) years in a Missouri public elementary or secondary school.

(16) If a recipient does not complete requirements for certification to teach in public elementary and secondary schools in Missouri in accordance with the terms of this rule, the scholarship amount shall be considered as a loan to the recipient and interest at the rate of nine and one-half percent (9 1/2%) per year shall be charged on the unpaid balance of the amount received from the state from the date the recipient ceased study leading to teacher certification until the amount received has been paid back to the state.

(17) If a recipient fails to be hired for or to accept a full-time teaching position in a Missouri public elementary or secondary school within ten (10) months after receiving certification to teach in Missouri public elementary or secondary schools, the scholarship amount shall be considered as a loan to the recipient and interest at the rate of nine and one-half percent (9 1/2%) per year shall be charged on the unpaid balance of the amount received from the state from the date ten (10) months after receiving certification until the amount has been paid back to the state.

(18) If a recipient does not continue to teach on a full-time basis in a Missouri public elementary or secondary school for a period of five (5) years after receiving a degree, the scholarship amount shall be considered as a loan to the recipient and interest at the rate of nine and one-half percent (9 1/2%) per year shall be charged on the unpaid balance of the amount received from the date the recipient ceases to teach until the amount received has been paid back to the state. For each year, up to five (5) years, that the recipient teaches in a Missouri public elementary or secondary school, one-fifth (1/5) of the amount received under the scholarship program shall be applied against the total amount received and shall not be subject to repayment.

(19) The amount received (plus interest) shall be repaid to the state within two (2) years of the date of default; except that repayment shall not be triggered for a period of not more than:

(A) One (1) year by a recipient's returning to full-time study after two (2) years of teaching in a Missouri public elementary or secondary school; or

(B) One (1) semester by a recipient's requesting and receiving maternity leave from a Missouri public school district if the recipient returns to a teaching position in a Missouri public elementary or secondary school following this interruption of employment.

(20) The obligation to teach on a full-time basis in a Missouri public elementary or secondary school for a period of five (5) years following certification shall not be altered by any such moratorium on the requirement to repay the scholarship funds.

(21) The state board may set aside fifteen percent (15%) of the scholarships for awards to qualified minority recipients.

(22) Exceptions. A recipient who wishes to request an exception to any of the terms of this rule must submit their request in writing

to DESE. DESE shall respond to each such request within thirty (30) days following receipt of the request and may schedule a hearing not more than forty-five (45) days following receipt of the request to receive testimony. A ruling on each request shall be rendered not more than fifteen (15) days following the hearing.

AUTHORITY: sections 160.276, 160.278, 160.281 and 160.283, RSMo 2000. Original rule filed Dec. 2, 1985, effective Feb. 24, 1986. Amended: Filed Aug. 1, 1989, effective Nov. 27, 1989. Rescinded and readopted: Filed March 29, 2002.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions two hundred forty-one thousand, five hundred thirty dollars (\$241,530) for Fiscal Year 2003, after the Governor's three percent (3%) reserve, with the cost recurring annually for the life of the rule based upon yearly appropriations from the General Assembly.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Elementary and Secondary Education. Attention: Janet Goeller, Director of Teacher Recruitment and Retention, Division of Teacher Quality and Urban Education, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received with thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST****I. RULE NUMBER**

Title: 5 – Department of Elementary and Secondary Education

Division: 80 – Division of Teacher Quality and Urban Education

Chapter: 850 – Professional Development

Rule Number and Name: 5 CSR 80-850.010 Administrative Procedures for the Teacher Education Scholarship Program

Type of Rulemaking: Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Elementary and Secondary Education	\$241,530 for FY 2003 after the Governor's 3% reserve, with the cost recurring annually for the life of the rule based upon yearly appropriations from the General Assembly

The current public cost of this rule for the Department of Elementary and Secondary Education is estimated to be \$241,530 for Fiscal Year 2003 after the Governor's 3% reserve, with the cost recurring annually for the life of the rule based upon yearly appropriations from the General Assembly.

The scholarship money is distributed to students who make a commitment to a teaching career and who enroll in a college program leading to certification to teach in the public schools of Missouri.

The school matching fund cost is estimated to be one dollar for each dollar that the Department of Elementary and Secondary Education provides for Fiscal Year 2003, with the cost recurring annually for the life of the rule.

III. WORKSHEET

The Department of Elementary and Secondary Education administers the Teacher Education Scholarship Program. The scholarship award program provides financial assistance to students who make a commitment to a teaching career and who enroll in a college program leading to certification to teach in the public schools of Missouri.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution
Control Rules Specific to the Kansas City Metropolitan
Area

PROPOSED AMENDMENT

10 CSR 10-2.260 Control of Petroleum Storage, Loading and Transfer. The commission proposes to add new subsection (1)(F), renumber original subsection (1)(F) and amend subsections (5)(A) and (5)(B). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency to replace the current rule in the Missouri State Implementation Plan.

PURPOSE: This proposed amendment corrects errors that were found when reviewing the previously adopted amendment. The tank sizes and thus the filling mechanisms and emissions venting controls in subsections (5)(A) and (5)(B) had been switched. The large tanks should have the sophisticated poppeted filling mechanisms and Stage I vapor recovery equipment rather than the simple controls used on small tanks. A definition for Stage I vapor recovery has also been added to section (1) Definitions for rule clarity. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the Rule Comment Form from staff dated September 14, 2001 advising of the discrepancy in the rule. This evidence is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

(1) Definitions.

(F) Stage I vapor recovery system—A system used to capture the gasoline vapors that would otherwise be emitted when a gasoline storage tank is refilled by a tank truck.

((F))(G) Definitions of certain terms specified in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.

(5) Gasoline Transfer.

(A) No owner or operator of a gasoline storage tank or delivery vessel shall cause or permit the transfer of gasoline from a delivery vessel into a gasoline storage tank with a capacity greater than *[two thousand (2,000)] two hundred fifty (250) gallons* unless—

1. The storage tank is equipped with a submerged fill pipe extending unrestricted to within six inches (6") of the bottom of the tank, and not touching the bottom of the tank, or the storage tank is equipped with a system that allows a bottom fill condition;

2. All storage tank caps and fittings are vapor-tight when gasoline transfer is not taking place; and

3. Each storage tank is vented via a conduit that is:

A. At least two inches (2") inside diameter;

B. At least twelve feet (12') in height above grade; and

C. Equipped with a pressure/vacuum valve that is CARB certified and MO/PETP approved at three inches water column pressure/eight inches water column vacuum (3" wcp/8" wcv). When the owner or operator provides documentation that the system is CARB certified for a different valve and will not function properly with a 3" wcp/8" wcv valve, the valve shall be MO/PETP approved. All pressure/vacuum valves shall be bench tested prior to installation. Initial fueling facilities shall have MO/PETP approved pressure/vacuum valves.

(B) Stationary storage tanks with a capacity *[of two hundred fifty to] greater than two thousand [(250–2,000)] (2,000) gallons* shall also be equipped with a Stage I vapor recovery system **in addition to the requirements of subsection (5)(A)** and the

delivery vessels to these tanks shall be in compliance with section (6) of this rule.

1. The vapor recovery system shall collect no less than ninety percent (90%) by volume of the vapors displaced from the stationary storage tank during gasoline transfer and shall return the vapors via a vapor-tight return line to the delivery vessel. After the effective date of this rule, all coaxial systems shall be equipped with poppeted fittings.

2. A delivery vessel shall be refilled only at installations complying with the provisions of section (4) of this rule.

3. This section shall not be construed to prohibit safety valves or other devices required by governmental regulations.

AUTHORITY: section 643.050, RSMo 2000. Original rule filed Jan. 15, 1979, effective June 11, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed April 1, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., June 28, 2002. The public hearing will be held at the Holiday Inn KCI, Heartland Ballroom II & III, 11832 Plaza Circle, Kansas City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., July 5, 2002. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 3—Air Pollution Control Rules Specific to the
Outstate Missouri Area

PROPOSED AMENDMENT

10 CSR 10-3.060 Maximum Allowable Emissions of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating. The commission proposes to amend subsections (3)(A), (3)(C) and (3)(E); sections (4), (5) and (6); and delete section (7). If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan.

PURPOSE: This proposed amendment will make this rule consistent with the other indirect heating regulations and eliminate conflicting requirements. A review of affected sources concluded that deleting this exemption will not cause any affected sources to change work practices or add additional control devices. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the U.S. Environmental Protection Agency letter dated September 2, 1998 requesting removal of contradictory language and associated rule comment forms. This evidence is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and

phone number listed in the Notice of Public Hearing at the end of this rule.

(3) General Provisions.

(A) This rule applies to installations in which fuel is burned for the primary purpose of producing steam, hot water or hot air or other indirect heating of liquids, gases or solids and in the course of doing so, the products of combustion do not come into direct contact with process materials. Fuels may include *[those such as/ for example* coal, coke, lignite, coke breeze, gas, fuel oil and wood, but do not include refuse. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

(C) For purposes of this rule, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack(s). The heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater, except in the case of boilers of ten (10) million British [T/thermal [U]units [(BTU)] (Btu) or less the heat input *[shall]* can also be determined by the higher heating value (HHV) of the fuel used at maximum operating conditions. The total heat input of all fuel burning units at a plant or on a premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

(E) This rule shall not apply to indirect heating sources subject to the provisions of 10 CSR 10-6.070. **However, indirect heat input values from sources that are subject to New Source Performance Standards shall be used in the calculation of Q (the installation's total heat input).**

(4) Emission Limitations for Existing *[Installations]* **Indirect Heating Sources.**

(A) No person may cause, allow or permit the emission of particulate matter from existing *[installations]* **indirect heating sources** in excess of that specified in the following schedule:

1. If the **total equipment heat input** has a capacity rating of ten (10) million [BTU] Btu or less, 0.60 pounds for each million [BTU] Btu per hour input; or

2. If the **total equipment heat input** has a capacity rating of ten thousand (10,000) million [BTU] Btu or more, 0.18 pounds for each million [BTU] Btu per hour input.

(B) The amount of particulate matter which may be emitted from fuel burning equipment having an intermediate capacity rating between ten (10) million and ten thousand (10,000) million [BTU] Btu shall be determined by use of the following equation:

$$E = 0.90(Q)^{-0.174}$$

where

E = the maximum allowable particulate emission rate in pounds per million [BTU] Btu of heat input, rounded off to two (2) decimal places; and

Q = the installation heat input in millions of [BTU] Btu per hour.

(5) Emission Limitations for New *[Installations]* **Indirect Heating Sources.**

(A) *[After April 3, 1971 no]* No person may cause, allow or permit the emission of particulate matter in excess of that specified in the following schedule:

1. If the **total equipment heat input** has a capacity rating of ten (10) million [BTU] Btu or less, 0.60 pounds for each million [BTU] Btu per hour input; or

2. If the **total equipment heat input** has a capacity rating of two thousand (2,000) million [BTU] Btu or more, 0.10 pounds for each million [BTU] Btu per hour input.

(B) The amount of particulate matter which may be emitted from fuel burning equipment having an intermediate capacity rating between ten (10) million and two thousand (2,000) million [BTU] Btu shall be determined by use of the following equation:

$$E = 1.31(Q)^{-0.338}$$

where

E = the maximum allowable particulate emission rate in pounds per million [BTU] Btu of heat input, rounded off to two (2) decimal places; and

Q = the installation heat input in millions of [BTU] Btu per hour.

(6) Compliance Schedule for Existing Sources. Existing burning equipment used for indirect heating shall be modified or rebuilt in compliance with section (4) in accordance with the following schedule: rated capacity—ten thousand (10,000) million or greater [BTU] Btu heat input per hour; latest date for compliance; January 1, 1972; and rated capacity—ten (10) million to nine thousand nine hundred ninety-nine (9,999) million [BTU] Btu heat input per hour; latest date for compliance, January 1, 1973.

[(7) Exemptions. This rule shall not apply to existing boilers with a capacity of ten (10) million BTU per hour or less heat input.]

AUTHORITY: section 643.050, RSMo [1986] 2000. Original rule filed March 24, 1971, effective April 3, 1971. For intervening history, please consult the Code of State Regulations. Amended: Filed April 1, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., June 28, 2002. The public hearing will be held at the Holiday Inn KCI, Heartland Ballroom II & III, 11832 Plaza Circle, Kansas City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., July 5, 2002. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 4—Air Quality Standards and Air Pollution
Control Regulations for the Springfield-Greene County
Area**

PROPOSED AMENDMENT

10 CSR 10-4.040 Maximum Allowable Emission of Particulate Matter From Fuel Burning Equipment Used for Indirect Heating. The commission proposes to amend subsections (1)(A) and (1)(E); and delete original section (2) and replace it with new sections (2) and (3). If the commission adopts this rule action, it

will be submitted to the U.S. Environmental Protection Agency for inclusion in the Missouri State Implementation Plan.

PURPOSE: This proposed amendment deletes the existing single emission limit for indirect heating sources and replaces it with one limit for existing sources and another limit for new sources to make it consistent with the outstate regulation. The limit for new indirect heating sources is more stringent than the limit it replaces. However, all affected sources meet the more stringent limit with existing control devices and work practices. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is the U.S. Environmental Protection Agency letter dated September 2, 1998 requesting that the rule language be amended for consistency with other rules and associated rule comment forms. This evidence is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

(1) General Provisions.

(A) This regulation applies to installations in which fuel is burned for the primary purpose of producing steam, hot water or hot air or other indirect heating of liquids, gases or solids and, in the course of doing so, the products of combustion do not come into direct contact with process materials. Fuels **may** include [those such as] for example coal, coke, lignite, coke breeze, gas, fuel oil and wood but do not include refuse. When any products or byproducts of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

(E) This rule shall not apply to indirect heating sources subject to the provisions of 10 CSR 10-6.070. **However, indirect heat input values from sources that are subject to New Source Performance Standards shall be used in the calculation of Q (the installation's total heat input).**

[(2) Emission Limitations.

(A) No person may cause, allow or permit the emission of particulate matter in excess of that specified in the following schedule:

1. If the equipment has a capacity rating of ten (10) million British Thermal Units (BTUs) or less, 0.60 pounds for each million BTUs per hour input; or

2. If the equipment has a capacity rating of ten thousand (10,000) million BTUs or more, 0.12 pounds for each million BTUs per hour input.

(B) The amount of particulate matter which may be emitted from fuel burning equipment having an intermediate capacity rating between ten (10) million and ten thousand (10,000) million BTUs shall be determined by use of the following equation:

$$E = 1.02(Q)^{0.233}$$

where

E = the maximum allowable particulate emission rate in pounds per million BTUs of heat input; rounded off to two (2) decimal places; and

Q = the installation heat input in millions of BTUs per hour.]

(2) Emission Limitations for Existing Indirect Heating Sources.

(A) No person may cause, allow or permit the emission of particulate matter from existing indirect heating sources in excess of that specified in the following schedule:

1. If the total equipment heat input has a capacity rating of ten (10) million British thermal units (Btu) or less, 0.60 pounds for each million Btu per hour input; or

2. If the total equipment heat input has a capacity rating of ten thousand (10,000) million Btu or more, 0.18 pounds for each million Btu per hour input.

(B) The amount of particulate matter which may be emitted from fuel burning equipment having an intermediate capacity rating between ten (10) million and ten thousand (10,000) million Btu shall be determined by use of the following equation:

$$E = 0.90(Q)^{-0.174}$$

where

E = the maximum allowable particulate emission rate in pounds per million Btu of heat input, rounded off to two (2) decimal places; and

Q = the installation heat input in millions of Btu per hour.

(3) Emission Limitations for New Indirect Heating Sources.

(A) No person may cause, allow or permit the emission of particulate matter in excess of that specified in the following schedule:

1. If the total equipment heat input has a capacity rating of ten (10) million Btu or less, 0.60 pounds for each million Btu per hour input; or

2. If the total equipment heat input has a capacity rating of two thousand (2,000) million Btu or more, 0.10 pounds for each million Btu per hour input.

(B) The amount of particulate matter which may be emitted from fuel burning equipment having an intermediate capacity rating between ten (10) million and two thousand (2,000) million Btu shall be determined by use of the following equation:

$$E = 1.31(Q)^{-0.338}$$

where

E = the maximum allowable particulate emission rate in pounds per million Btu of heat input, rounded off to two (2) decimal places; and

Q = the installation heat input in millions of Btu per hour.

AUTHORITY: section [203.050] 643.050, RSMo [1986] 2000. Original rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed March 15, 1979, effective Nov. 11, 1979. Amended: Filed Oct. 13, 1983, effective March 12, 1984. Amended: Filed March 14, 1984, effective Sept. 14, 1984. Amended: Filed April 1, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., June 28, 2002. The public hearing will be held at the Holiday Inn KCI, Heartland Ballroom II & III, 11832 Plaza Circle, Kansas City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., July 5, 2002. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 25—Hazardous Waste Management
Commission
Chapter 12—Hazardous Waste Fees and Taxes

PROPOSED AMENDMENT

10 CSR 25-12.010 Fees and Taxes. The commission is amending sections (1), (3) and (4).

PURPOSE: Section 260.479, RSMo establishes the category tax paid by generators of hazardous waste, including minimum annual amounts, individual site caps, and a company cap. Currently the minimum annual amount is \$50, the individual site caps are \$40,000 or \$80,000 annually depending on the waste disposal method used, and the company cap is \$80,000 annually. The Missouri Hazardous Waste Management Commission is authorized to increase these amounts annually, via the rulemaking process, by as much as 2.55% and has proposed this amendment to effect the rate increase for the December 2002 billings which are calculated on waste generated and/or shipped off-site from July 1, 2001 through June 30, 2002.

Additionally, various sections in Chapter 260, RSMo authorize the commission to determine the department's reasonable costs incurred in review of any plans, documents, or reports submitted by hazardous waste facilities. Section 260.375(30), RSMo authorizes the commission to determine the department's reasonable costs incurred in review of any plans, documents, or reports submitted by facilities undergoing corrective action to investigate, monitor, or clean up any releases of hazardous wastes or hazardous constituents to the environment at hazardous waste facilities. Section 260.375(7), RSMo authorizes the commission to determine the department's reasonable costs incurred in the review of any engineering data submitted by applicants for hazardous waste facility permits. Section 260.395(14), RSMo establishes that owners or operators of hazardous waste facilities shall pay to the department all reasonable costs, as determined by the commission, incurred pursuant to review of resource recovery certification applications. The department's reasonable costs are determined by use of a multiplier, as described in 10 CSR 25-12.010(3) and (4). Hourly rates for departmental staff performing oversight or engineering review are multiplied by a fixed factor to account for the department's administrative costs. The multiplier has not been increased in several years and, at its current rate, does not enable the department to fully recover its costs because of increases in fringe benefits and other indirect costs. An analysis of these costs, as well as other fixed factor costs, has determined that costs are actually a factor of three and one-half (3 1/2). This analysis is available for reviewing at the Department of Natural Resources' Hazardous Waste Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

The commission proposes to amend 10 CSR 25-12.010(1)(D) by increasing the hazardous waste generator category tax rates, minimum and maximums by 2.55% each and to amend sections (3) and (4) to increase the fixed factor multiplier used to bill for the department's indirect costs from two and one-half (2 1/2) to three and one-half (3 1/2). Sections (2) and (5) are not proposed for amendment.

(1) Hazardous Waste Fees and Taxes Applicable to Generators of Hazardous Waste.

(A) A generator of hazardous waste shall pay the following fee as required by subdivision 260.380.1(10), RSMo. A generator as defined in 10 CSR 25-5.262, unless paragraph (1)(A)1., 2. or 3. of this rule provides otherwise, shall pay a fee of one dollar per ton (\$1/ton) of hazardous waste generated. This fee shall be payable to the state of Missouri. The fee shall be paid in accordance with the following procedures: The fee shall be paid on an

annual basis on or before January 1 of each year. The fee shall equal the product of one dollar per ton (\$1/ton) multiplied by the amount of tons of hazardous waste generated during the twelve (12)-month period ending June 30 of the calendar year immediately preceding January 1 of the calendar year in which payment is due. (For example, a generator would be billed in December 1992 for waste produced during the period July 1, 1991 through June 30, 1992.) The fee is applied to hazardous waste defined by or listed in 10 CSR 25-4.261 which is regulated as hazardous waste at the time of its generation except as paragraph (1)(A)1., 2. or 3. of this rule provides otherwise. The fee shall not exceed ten thousand dollars (\$10,000) per generator per year.

1. Hazardous waste that is discharged by a generator to a municipal wastewater treatment plant, which is regulated by a permit issued by the Missouri Clean Water Commission, shall be assessed a fee of zero cents per ton (0¢/ton) of hazardous waste so managed.

2. The fee shall not be imposed upon any generator who has registered with the department, in accordance with 10 CSR 25-5.262, less than ten (10) tons of hazardous waste per year.

[3. The fee shall not be imposed upon any hazardous waste fuel produced from processing, blending or other treatment.

A. Beginning with the December 1995 billing for hazardous waste generated July 1, 1994 through June 30, 1995, this exemption applies only to the hazardous waste fuel processed, blended or treated by a fuel blender receiving hazardous waste from the original generator who has already paid the tax in this section on the hazardous waste.

B. This exemption does not apply to hazardous waste used directly as a fuel.]

(D) An individual generator required to register in accordance with 10 CSR 25-5.262 shall pay a tax based on the volume by weight and management method in accordance with subsection (1)(E) of this rule and as required by section 260.479, RSMo. Sixty percent (60%) of revenues collected from this tax shall be transmitted by the department to the Missouri Department of Revenue for deposit in the hazardous waste remedial fund and forty percent (40%) of revenues collected from this tax shall be deposited in the hazardous waste fund. The tax will be based on the volume of hazardous waste generated and the management method utilized beginning on July 1 of the year preceding the billing year and through June 30 of the billing year. A company shall not annually pay more than ~~[eighty]~~ **eighty-two thousand forty dollars [(\$80,000)] (\$82,040)** collectively for all combined plant sites under the provisions of this subsection **unless the company also has a facility utilizing blended hazardous waste fuel**, nor shall a generator who is required to register in accordance with 10 CSR 25-5.262 pay less than ~~[fifty]~~ **fifty-one dollars twenty-eight cents [\$50] (\$51.28)** annually. However, as outlined in subdivision 260.479.2(2), RSMo these minimum and maximum amounts may be adjusted annually by the commission.

1. The following hazardous wastes are exempted from this tax:

A. Any hazardous wastes generated by the state and any political subdivision of the state;

B. Waste oil;

C. Any hazardous waste generated by a person who qualifies as a conditionally exempt generator due to the quantity of waste generated in one (1) month or accumulated at one (1) time as specified under 10 CSR 25-3.260(1)(A)25.; and

D. Hazardous wastes legitimately discharged into a publicly-owned treatment works and exempted in 10 CSR 25-4.261. (Comment: This exclusion does not exclude sludges that are hazardous waste and are generated by industrial wastewater treatment.)

2. This tax shall not be imposed upon the following hazardous waste: hazardous waste fuel produced from hazardous waste by processing, blending or other treatment; hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site under sections 260.435-260.550, RSMo or as part of a remedial plan required under sections 260.350-260.434, RSMo; or smelter slag waste from the processing of materials into reclaimed metals.

A. Beginning with the billing sent out in December 2001 for hazardous waste generated July 1, 2000 through June 30, 2001, the exemption for hazardous waste fuel produced from hazardous waste by processing, blending or other treatment shall be removed in accordance with subdivisions 260.479.5, RSMo and 260.479.7, RSMo. However, this tax on hazardous waste fuel shall be assessed upon and paid by the facility utilizing such hazardous waste fuel as a substitute for other fuel. The tax shall be assessed and paid based upon the reporting year in which the hazardous waste fuel is received by the facility. **No individual facility utilizing hazardous waste fuel shall pay more than eighty-two thousand forty dollars (\$82,040) annually as a facility utilizing blended hazardous waste fuel; however, this amount is in addition to the potential eighty-two thousand forty dollar (\$82,040) company cap which these facilities may be subject to as a generator of hazardous waste.**

[B. This exemption does not apply to hazardous waste used directly as a fuel.]

(E) A generator who is not otherwise exempted by paragraph (1)(D)1., 2. or 3. of this rule shall pay a tax in each of the applicable subdivisions.

1. SUBDIVISION A—TAX.

A. A generator who manages hazardous waste by on-site storage that requires a permit in accordance with 10 CSR 25-7.264 or interim status in accordance with 10 CSR 25-7.265 or off-site storage that is not in conjunction with incineration, resource recovery, treatment or any other similar management method and a generator utilizing a disposal facility shall use the following formula to calculate his/her tax for hazardous waste generated from each state fiscal year, July 1 of each year through June 30 of the following year. (Note: A disposal facility means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and, at which, the waste will remain after closure.)

B. Tax in subdivision A = $[(\$21.80 + ($.07989 \times \text{number of tons generated})) \times (.90785 \times \text{number of tons generated})] (\$22.36 + ($.081926 \times \text{number of tons generated})) \times (.90785 \times \text{number of tons generated})$. **No individual site shall pay more than eighty-two thousand and forty dollars (\$82,040) annually for subdivision A waste.**

2. SUBDIVISION B—TAX.

A. A generator who utilizes a management technique not included in subdivision A shall use the following formula to calculate his/her tax for hazardous waste generated during the state fiscal year.

B. Tax in subdivision B = $[(\$10.90 + ($.039945 \times \text{number of tons generated})) \times (.90785 \times \text{number of tons generated})] (\$11.18 + ($.040963 \times \text{number of tons generated})) \times (.90785 \times \text{number of tons generated})$. **No individual site shall pay more than forty-one thousand twenty dollars (\$41,020) annually for subdivision B waste.**

3. TOTAL TAX.

A. The total tax for a generator is the applicable tax in subdivision A plus the applicable tax in subdivision B. No company shall pay **annually** more than *[eighty]* **eighty-two thousand forty dollars** $[(\$80,000)]$ **(\$82,040)** or less than *[fifty]* **fifty-one dollars and twenty-eight cents** $[(\$50)]$ **(\$51.28)** under subsection (1)(E) unless they are also a facility utilizing blended hazardous waste fuel.

B. The billing of each year will be based on information submitted by generators and facilities on the quarterly manifest summary reports required at 10 CSR 25-5.262(2)(D)1., 10 CSR 25-7.264(2)(E)3. and 10 CSR 25-7.265(2)(E). The billing will be based on waste generated during the previous state fiscal year.

(3) Fees and Taxes Applicable to Applicants for Permits or Certifications and to Owners/Operators of Treatment, Storage, Disposal or Resource Recovery Facilities.

(D) An applicant for a hazardous waste treatment, storage or disposal facility permit or resource recovery certification shall pay all applicable costs in accordance with 10 CSR 25-7.270(2)(B)9., 10 CSR 25-9.020(5), and as required by subdivisions 260.395.7(7) and 260.395.14(2), RSMo for engineering and geological review. Those costs for engineering and geological review will be billed in the following categories:

1. The project engineer's and geologist's time expended in the following areas:

A. Supervision of field work undertaken to collect geologic and engineering data for submission with the permit application or resource recovery certification application;

B. Review of geologic and engineering plans submitted in relation to the permit application or resource recovery certification application;

C. Assessment and attesting to the accuracy and adequacy of the geologic and engineering plans submitted in relation to the permit application or resource recovery certification application; and

D. The project engineer's and geologist's time billed at the engineer's and geologist's hourly rates multiplied by a fixed factor of *[two]* **three** and one-half $[(2 \frac{1}{2})]$ **(3 1/2)**. This fixed factor is comprised of direct labor; fringe benefits including, but not limited to, insurance, medical coverage, Social Security, Workers' Compensation and retirement; direct overhead, including, but not limited to, clerical support and supervisory engineering review and Hazardous Waste Program administrative and management support; general overhead, including, but not limited to, utilities, janitorial services, building expenses, supplies, expenses and equipment, and department indirect costs; and engineering support, including, but not limited to, training, peer review, tracking and coordination;

2. The direct costs associated with travel to the facility site to supervise any field work undertaken to collect geologic and engineering data or to ascertain the accuracy and adequacy of geologic and engineering plans, or both, including, but not limited to, expenses actually incurred for lodging, meals and mileage based on the rate established by the state of Missouri. These costs are in addition to the costs in paragraph (3)(D)1. of this rule; and

3. Costs directly associated with public notification and departmental public hearings, including legal notice costs, media broadcast costs, mailing costs, hearing officer costs, court reporter costs, hearing room costs and security costs, will be billed to the applicant. In a contested case as defined in section 536.070(4), RSMo, costs related to preparing and supplying one (1) copy of the transcript(s) of the case shall not be charged to the applicant.

(4) Corrective Action Oversight Cost Recovery.

(B) Corrective action cost recovery billing shall be based on the hourly rate(s) of departmental staff performing corrective action oversight multiplied by a fixed factor of *[two]* **three** and one-half $[(2 \frac{1}{2})]$ **(3 1/2)**. This fixed factor is comprised of direct labor; fringe benefits including, but not limited to, insurance, medical coverage, Social Security, Workers' Compensation and retirement; direct overhead, including, but not limited to, clerical support and supervisory review and Hazardous Waste Program administrative and management support; general overhead, including, but not limited to, utilities, janitorial services, building expenses, supplies, expenses and equipment, and department indirect costs; and other

support activities, including, but not limited to, training, peer review, tracking and coordination.

AUTHORITY: sections 260.370, 260.380, 260.395, 260.437 and 260.479, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1985. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Dec. 17, 2001. Amended: Filed April 2, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment is estimated to cost private entities one hundred thirty-seven thousand, two hundred sixty-two dollars and eighty-eight cents (\$137,262.88) in the next fiscal year and annually thereafter. A detailed fiscal note with the relevant cost information has been filed with the secretary of state.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: The Missouri Hazardous Waste Management Commission will hold a public hearing on this rule action and others beginning at 9:00 a.m. on June 4, 2002 at the Elm Street Conference Center, 1738 East Elm Street, Jefferson City, Missouri. Any person wishing to speak at the hearing shall send a written request to the Secretary of the Hazardous Waste Management Commission at PO Box 176, Jefferson City, MO, 65102-0176. To be accepted, written requests to speak must be postmarked by midnight on May 24, 2002. Faxed or e-mailed correspondence will not be accepted.

Any person may submit written comments on this rule action. Written comments shall be sent to the Director of the Hazardous Waste Program at PO Box 176, Jefferson City, MO, 65102-0176. To be accepted, written comments must be postmarked by midnight on June 14, 2002. Faxed or e-mailed correspondence will not be accepted.

Please direct all inquiries to the Rules Coordinator of the Hazardous Waste Program, at 1738 E. Elm, Jefferson City, MO 65102, telephone (573) 751-3176.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Hazardous Waste Fees & Taxes

Division: 25-Hazardous Waste Management Commission

Chapter: 12-Hazardous Waste Fees & Taxes

Type of Rulemaking: Proposed Amendment

Rule Number and Name: 10 CSR 25-12.010 - Fees & Taxes

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities ⁴ :
472	Large Quantity Generators ¹	\$27,155
2,721	Small Quantity Generators ²	\$6,662
61	Facilities billed by the Department for various engineering review activities ³	\$103,445.88

¹The number of entities shown is the total number of current, active registrations classified as Large Quantity Generators.

²The number of entities shown is the total number of current, active registrations classified as Small Quantity Generators.

³The Department sends out quarterly bills for engineering review work performed at hazardous waste facilities. The number of facilities billed within a given quarter varies, but for the purposes of this fiscal note the Department assumes that 61 facilities will be billed per quarter. These facilities include facilities permitted by the department for treatment, storage, or disposal of hazardous waste, facilities undergoing corrective action under the oversight of the department, and facilities applying for a resource recovery certification from the department.

⁴Because the duration of this rule is unknown, an annual aggregate cost of compliance is provided

III. WORKSHEET

1. Total Category Tax collected for FY2000 to date is \$2,192,000.
2. The proposed increase to the category tax rates, individual site caps, and company caps will result in an aggregate increase of about \$55,896.
3. Missouri generators paid about 60.5% of total collected, or about \$1,326,160.
4. The proposed increase will result in Missouri generators paying an additional \$33,817.
5. Because of the progressive nature of the Category Tax formula, Large Quantity Generators will pay about 80.3% of the increase or \$27,155 and Small Quantity Generators will be about \$6,662 or 19.7% of the increase.
6. For each facility billed by the Department for corrective action, engineering or resource recovery review work, increasing the multiplier from 2.5 to 3.5 is estimated to result in an average increase of approximately \$1703.56 for the first year following the effective date of the amendment.
7. The estimated additional amount was calculated based upon Department records of bills issued in the most recent 4 quarters for which billing information was available. The highest 5% of bills and the lowest 5% of bills were eliminated in order to provide a more accurate estimate. An average bill was then calculated using the current multiplier of 2.5 and also calculated using the proposed multiplier of 3.5. The estimated additional amount is the difference between the average bill based on the current multiplier and the average bill based on the proposed

multiplier. This additional amount was projected over the first four quarters following the effective date of the proposed amendment.

8. For the 61 facilities projected to be billed by the Department in the first four quarters following the effective date of this amendment, the estimated additional annual cost is \$103,445.88. It is assumed that this amount will remain constant throughout the duration of the rule.

IV. ASSUMPTIONS

1. It is assumed that an average of 61 hazardous waste facilities will be billed for each of the first four quarters following the projected effective date of this amendment. This figure is projected based upon department records for number of facilities billed over the last five quarters which indicate a slight increase in the number of facilities billed each quarter.
2. Based upon the average number of facilities billed per quarter, it is assumed that a total of 243 bills will be issued in the first 4 quarters following the projected effective date of this amendment
3. It is assumed that the additional revenue projected to be generated by the increase in the multiplier in the first four quarters following the effective date of this amendment will remain constant for the duration of the rule.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 2—Income Tax**

PROPOSED AMENDMENT

12 CSR 10-2.015 Employers' Withholding of Tax. The department proposes to amend sections (4) and (12).

PURPOSE: This amendment clarifies the employer reporting responsibilities of employers. It also changes the supplemental wage withholding tax rate and deletes the method for determining filing frequency of a complex employer.

(4) Employer With More Than One (1) Payroll Unit—Complex Employer. If a consolidated report and remittance of the tax withheld cannot be made by the employer because of the complexity of the organization, branch offices or divisions may be designated as withholding agents. These agents can perform the actual withholding and remitting. However, regardless of any internal arrangements which may be established by the complex employer, the legal responsibility and liability under the law still rests with the home office. If the complex employer has designated withholding agents, and the agents wish to claim the compensation deduction, only one (1) agent will be entitled to the full deduction and the remaining agents will be entitled to one-half percent (1/2%) deduction of income taxes withheld if the returns are filed timely. *[The filing frequency for a complex employer is determined by the total amount withheld by all reporting units.]*

(12) Supplemental Wage Payments. If supplemental wages are paid, such as bonuses, commissions, overtime pay, back pay, including retroactive wage increases or reimbursements for non-deductible moving expenses in the same payment with regular wages, withhold Missouri income tax as if the total of the supplemental and regular wages were a single wage payment for the regular payroll period. If supplemental wages are paid in a different payment from regular wages, the method of withholding income tax depends in part on whether income tax is withheld from the employee's regular wages.

(A) If income tax has been withheld from the employee's regular wages, choose either one (1) of the following methods for withholding income tax on the supplemental wages:

1. Method One. Withhold at a flat percentage rate of *[three] six percent [(3%)] (6%)* of the supplemental wages, using zero withholding allowances; or

2. Method Two. Add the supplemental wages to the employee's regular wages paid to the employee within the same calendar year for the payroll period and determine the income tax to be withheld as if the aggregate amount were one (1) payment. Subtract the tax already withheld from the regular wage payment and withhold the remaining tax from the supplemental wage payment.

AUTHORITY: section 143.961, RSMo [1994] 2000. This rule was previously filed as "Missouri Employer's Tax Guide" Feb. 20, 1973, effective March 2, 1973. Original rule filed Jan. 29, 1974, effective Feb. 8, 1974. For intervening history, please consult the Code of State Regulations. Amended: Filed April 1, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with the

Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105-0629. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.008 Manufacturers and Wholesalers. This rule interpreted the sales tax law as it applied to manufacturers and wholesalers, and interpreted and applied sections 144.010(8) and 144.020, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 27 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-3 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.031 Dual Operators. This rule indicated when a contractor is considered a dual operator and sets forth the procedures to be used by the dual operator to determine when purchases become subject to sales tax. Examples are given for clarification purposes.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Oct. 15, 1985, effective March 24, 1986. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.034 Modular or Sectional Homes. This rule interpreted the sales tax law as it applied to modular or sectional homes and interpreted and applied sections 144.010, 144.020 and 700.110, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 91 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-13 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.042 State or Federal Concessionaires. This rule interpreted the sales tax law as it applied to state or federal concessionaires and interpreted and applied sections 144.010, 144.020 and 144.021, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 010-17 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.044 Labor or Services Rendered. This rule interpreted the sales tax law as it applied to labor services rendered and interpreted and applied sections 144.010 and 144.020, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 17 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-18 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.116 Service Station Ownership. This rule interpreted the sales tax law as it applied to service station ownership and interpreted and applied sections 144.010 and 144.021, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 90 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-51 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.144 Redemption of Coupons. This rule interpreted the sales tax law as it applied to the redemption of coupons and interpreted and applied sections 144.010 and 144.021, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 95 Jan. 22, 1975, effective Feb. 1, 1975. S.T. regulation 010-65 was last filed Dec. 5, 1975, effective Dec. 15, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Amended: Filed Nov. 4, 1992, effective May 6, 1993. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.158 Sale on Installed Basis. This rule interpreted the sales tax law as it applied to sales made on an installed basis and interpreted and applied sections 144.010 and 144.021, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. This rule was previously filed as rule no. 17 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-74 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.179 Separate Taxable Transactions Involving the Same Tangible Personal Property and the Same Taxpayer. This rule identified the circumstances when the sale tax would apply to tangible personal property in more than one instance under diverse transactions and interpreted and applied sections 144.010, 144.020 and 144.021, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

PROPOSED RESCISSION

12 CSR 10-3.233 Export Sales. This rule interpreted the sales tax law as it applied to export sales and interpreted and applied sections 144.010 and 144.030, RSMo.

PURPOSE: This rule is being rescinded because it is superseded by other rules.

AUTHORITY: section 144.270, RSMo 1994. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the

Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax**

PROPOSED RESCISSION

12 CSR 10-8.040 Homestead Allowance. This rule served as an interpretive guideline under sections 145.090(3) and 145.090(5), RSMo 1969 in determining the homestead allowance for the surviving spouse and unmarried minor children of a decedent.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-090 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax**

PROPOSED RESCISSION

12 CSR 10-8.050 Interest. This rule was intended as an interpretive guideline in determining taxes and interest, when due, under section 145.110, RSMo 1986.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-110 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax**

PROPOSED RESCISSION

12 CSR 10-8.060 Payment of Tax—Receipt—Refund. This rule was intended as an interpretive guideline in determining when money is to be paid to the director of revenue—issuance of a receipt therefore, and taxes paid erroneously to be refunded, under sections 145.140 and 145.250, RSMo 1986.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-140 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax**

PROPOSED RESCISSION

12 CSR 10-8.070 Probate Court to Determine Tax—Procedure. This rule was intended as a guideline as to the matter of allowable claims and deductions against the estate under section 473.360, RSMo 1969 and exception thereto under sections 473.367 and 473.370, RSMo 1969, and included certain procedural methods of tax computations.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-150 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax**

PROPOSED RESCISSION

12 CSR 10-8.080 Appraisers Duties and Report of Appraisement. This rule served as an interpretive guideline as to those matters concerning the assessment of inheritance and estate tax and preparation of the report of appraiser under section 145.160, RSMo 1969.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-160 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax**

PROPOSED RESCISSION

12 CSR 10-8.090 Errors in Appraiser's Reports—Exceptions to Appraiser's Report. This rule was intended as a guideline for the filing of exceptions, when an interested party felt any part of the appraiser's report to be in error under section 145.170, RSMo 1969.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-170 was last filed on Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax**

PROPOSED RESCISSION

12 CSR 10-8.100 Report of Appraiser. This rule served as an interpretive guideline in the matter of the statutory time limit in which the probate court must have submitted a certified copy of the report to the director of revenue and documents that accompanied the report as attachments under section 145.180, RSMo 1969.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-180 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax**

PROPOSED RESCISSION

12 CSR 10-8.110 Valuation of Life Estates and Remainder—Methods of Computation—Mortality Table. This rule was intended as a general guideline as to those matters considered by the director of revenue in determining the value of a life estate and remainders and mortality table used by the insurance department for the purpose of computing the tax on the basis of five percent, under section 145.200, RSMo 1969.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-200 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax

PROPOSED RESCISSION

12 CSR 10-8.130 Exercise of Power of Appointment—Unlimited Power of Encroachment. This rule served as a guideline as to those matters considered by the director of revenue in determining the taxable interest derived from any disposition of property upon exercising a power of appointment or an unlimited power to encroach upon the corpus of a testamentary trust.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-230 was last filed [on] Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax

PROPOSED RESCISSION

12 CSR 10-8.140 Refund. This rule was intended as a guideline in the determination of the requirements of satisfactory proof of overpayment by an order of probate court, and presentation of the court order to the director of revenue within two (2) years from the date order was certified by the probate court.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1986. Inheritance tax rule 61-250 was last filed [on] Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax

PROPOSED RESCISSION

12 CSR 10-8.150 Mortality Table. The mortality table used by the director of revenue, under section 145.220, RSMo 1986 was assigned a rule number in order to comply with the uniform procedures adopted by the secretary of state under section 536.023, RSMo 1986. It was used in determining the value of life estates.

PURPOSE: This rule is being rescinded because the granting statutes are no longer in effect.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Mortality table was last filed [on] Dec. 31, 1975, effective Jan. 10, 1976. Rescinded: Filed April 1, 2002.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 102—Sales/Use Tax—Taxpayers Rights

PROPOSED AMENDMENT

12 CSR 10-102.016 Refunds and Credits. The director proposes to amend subsections (2)(A) and (3)(A).

PURPOSE: This amendment is to remove language requiring a notary on refund applications due to a statutory change to section 144.190, RSMo, in which notaries are no longer a statutory requirement for filing a sales/use tax refund claim.

(2) Basic Application of Tax.

(A) A taxpayer may file a claim for a refund within three (3) years after the date of an overpayment. The date of the overpayment is the due date of the original return or the date paid whichever is later. The department will not consider a claim unless it is filed within the three (3)-year period. Every claim must be in writing [under oath], signed by the applicant, and must state the specific grounds upon which the claim is founded. If the overpayment is due to an error or omission in a previously filed return, the claim must be accompanied by an amended return for each period in which the tax was originally reported. If the error or omission is corrected in the return immediately following the filing period in which the error or omission occurred, no amended return or claim for refund is required.

(3) Examples.

(A) A vendor collects tax on a sale to a customer that takes place in August and reports it on its August sales tax return. In October, that customer presents a valid exemption certificate for the August sale. To claim a refund, the vendor must complete a [notarized] claim for refund and submit it with a copy of the

invoice, the customer's exemption certificate and an amended August return.

AUTHORITY: section 144.270, RSMo [1994] 2000. This rule originally filed as 12 CSR 10-110.016. Original rule filed Sept. 29, 1999, effective March 30, 2000. Changed to 12 CSR 10-102.016 Dec. 31, 2000. Amended: Filed April 1, 2002.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105-0629. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 103—Sales/Use Tax—Imposition of Tax**

PROPOSED RULE

12 CSR 10-103.395 Physicians, Dentists and Optometrists

PURPOSE: Sections 144.010.1(10) and 144.020.1(1), RSMo, tax the retail sale of tangible personal property. This rule interprets the tax laws as they apply to physicians, dentists and optometrists.

(1) In general, physicians, dentists and optometrists are rendering services not subject to tax. Tangible personal property purchased by physicians, dentists and optometrists and used or consumed in the practice of their professions is subject to tax when purchased. Tangible personal property purchased by physicians, dentists and optometrists and not used or consumed in the practice of their professions is subject to tax when resold by them.

(2) Definition of Terms.

(A) Dentist—a person licensed to practice dentistry.

(B) Optometrist—a person licensed to practice optometry.

(C) Physician—a person licensed to practice medicine, which includes an ophthalmologist.

(D) Used in the practice of the profession—employed in providing, directly or indirectly, professional care.

(3) Basic Application of Tax.

(A) Physicians, dentists and optometrists must pay tax on the purchase of items used or consumed in the practice of their profession. Such items include, but are not limited to, medical instruments, bandages, splints, x-ray film, medical equipment, eyeglasses, frames and lenses.

(B) Physicians, dentists and optometrists that sell items that are not used in the practice of their profession are responsible for collecting and remitting the tax on the gross receipts derived from these sales.

(C) Sales by persons other than physicians or optometrists of eyeglasses, frames and lenses are subject to tax.

(D) See also 12 CSR 10-110.013 Drugs and Medical Equipment.

(4) Examples.

(A) A physician purchases diagnostic equipment, surgical tools and supplies for use in providing care to her patients. These purchases are subject to tax.

(B) An optometrist purchases eyeglasses, frames and lenses and uses these items in the diagnosis, treatment and correction of conditions of the human eye. The optometrist charges the patient a separate amount for the frame and lenses. The optometrist should pay tax on these items because they are consumed in the practice of his profession. The amount charged the patient for the frame and lenses is not a sale at retail and is not subject to tax.

(C) A retailer of prescription eyeglasses, lenses and frames advertises that an optometrist is available to examine customers. The optometrist performs eye examinations for customers of the retailer but the retailer owns the inventory held for sale. Sales of the eyeglasses, lenses and frames are subject to tax because they are not sales by the optometrist.

(D) An optician makes and sells eyeglasses to fill a patient's prescription. These sales are subject to tax.

(E) A dentist sells accessories such as travel kits, mirrors and other items not related to the practice of the profession. These sales are subject to tax.

AUTHORITY: sections 144.010 and 144.020, RSMo Supp. 2001. Original rule filed April 1, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 108—Sales/Use Tax—Taxable Services**

PROPOSED RULE

12 CSR 10-108.700 Lease or Rental of Tangible Personal Property

PURPOSE: This rule explains the application of tax to leases or rentals of tangible personal property (other than motor vehicles, trailers, boats or outboard motors) under section 144.020.1(8), RSMo.

(1) In general, payments for the lease of tangible personal property are subject to tax unless the lessor paid tax on the purchase of the property. Payments for the lease of tangible personal property are exempt from tax if the sale of the tangible personal property would be exempt.

(2) Definition of Terms.

(A) Lease—any transfer of the right to possess or use tangible personal property for a term in exchange for consideration. This includes a rental. However, if tangible personal property is used to provide a service to a customer and the use of the property is a necessary or mandatory part of the service transaction, then any temporary transfer of the property to the customer as part of the service transaction is not a lease or rental of the property.

(B) Lessor—a person who transfers the right to possess or use tangible personal property under a lease.

(C) Lessee—a person who receives the right to possess or use tangible personal property under a lease.

(D) Sublease—a lease of tangible personal property by a person who acquired the right to possess or use the property through a lease.

(E) Sublessor—a person who acquires the right to possess or use tangible personal property under a lease and subsequently transfers the right to possess or use the tangible personal property to another person under a sublease.

(3) Basic Application of the Tax.

(A) When a lessor purchases tangible personal property for the purpose of leasing, the lessor may pay tax on the purchase price or claim a resale exemption based on the intended lease of the tangible personal property.

1. If the lessor pays tax on the purchase price, the subsequent lease of the tangible personal property is not subject to tax.

2. If the lessor claims a resale exemption on its purchase, the amount charged for lease of the tangible personal property is subject to tax.

3. The election to pay tax on the purchase price must be made at the time the tangible personal property is purchased by the lessor. If tax is not paid on the tangible personal property at the time of the purchase, the lease is subject to tax.

4. If the lessor acquires the property in some way other than a taxable purchase (e.g., through a repossession or foreclosure, or by self-manufacturing), the amount charged for lease of the tangible personal property is subject to tax.

(B) Subleases—When property is leased for the purpose of subleasing and the original lessor did not pay tax on its purchase, the sublessor has the option of either paying tax on its lease payments, or claiming a resale exemption and collecting tax on its subsequent sublease of the property.

1. If the sublessor pays tax on its lease or rental, the sublease of the property is not subject to tax.

2. If the sublessor makes a claim of exemption from tax based on resale, the amount charged for sublease of the tangible personal property is subject to tax.

3. The election to pay tax on the rental must be made at the time the property is first rented to the sublessor. If tax is not paid on the property at that time, the sublease payments are subject to tax.

(C) Exemptions—Tangible personal property that is exempt from tax for any reason upon a sale of such property is also exempt from tax upon the lease of such property.

(D) Sale and leaseback transactions—Transactions structured as sales and leasebacks will be treated as nontaxable financing transactions if: (i) the seller-lessee previously purchased the tangible personal property and paid tax on the purchase price; (ii) the “lease” transaction creates a security interest (see below) in the property; and (iii) the purchaser-lessor holds no ownership interest in the property, other than the security interest, and does not claim any deduction, credit or exemption with respect to the property for federal or state income tax purposes. All three (3) of these elements must be present, or the transaction will be treated as a sale and subsequent lease, and taxed as any other sale and lease.

1. Whether the transaction creates a security interest in the property depends on the intent of the parties. If the lessee becomes the owner of the property for no additional consideration or for nominal consideration after all of the agreed lease payments are made, then there is a presumption that the transaction creates a security interest. If the lessee must pay more than nominal consideration to acquire title and ownership to the property after all the agreed lease payments are made, then the agreement will be considered to create a security interest in the property only if four (4) or more of following factors are present:

A. The lessee is required to insure the property in favor of the lessor;

B. The lessee bears the risk of loss or damage;

C. The lessee is required to pay for taxes, repairs and maintenance;

D. The agreement establishes default provisions governing acceleration and resale;

E. The warranties that usually apply to true leases of such property are expressly disclaimed and excluded;

F. The lease term is equal to or exceeds the economic life of the property; or

G. The lease payments equal or exceed the purchase price of the property plus interest.

(E) Leases with an option to purchase—leases that include an option to purchase the property are taxed like all other leases. If the lessee exercises the option to purchase the property, the additional amount paid for the purchase of the property is also subject to tax.

(F) Leases of property in places of amusement, entertainment and recreation are taxed as provided in 12 CSR 10-108.100.

(G) Interstate transactions—Leases of property in Missouri and taken outside the state by the lessee are subject to Missouri sales tax. If the lessor or a common carrier delivers the property to a location outside Missouri and the property remains outside Missouri, the lease or rental is not subject to Missouri tax. Property leased from a lessor outside Missouri and used in Missouri is subject to Missouri use tax.

(H) Local tax—the local taxes applicable to a lease of tangible personal property are determined in the same manner as if the lease or rental were a sale of the property. See 12 CSR 10-117.100.

(I) Repair parts for leased equipment—A lessor may not claim a resale exemption on repair or replacement parts used on leased tangible personal property unless:

1. The parts are provided to the lessee at no additional charge and the lessor collects tax on the lease payments; or

2. The lessor charges the lessee for the part and collects tax on the charge.

(4) Examples.

(A) A taxpayer purchases seven lawnmowers and pays tax on the purchase price. The subsequent rental of the lawnmowers is not subject to tax.

(B) A taxpayer purchases seven lawnmowers and provides the seller with a resale exemption certificate. The subsequent rental of the lawnmowers is subject to tax, however, the purchase is not subject to tax. The taxpayer must collect and remit tax on the rental payments for the lawnmowers. After renting the lawnmowers for three years, the taxpayer sells them. The taxpayer must collect and remit tax on the sale of the used lawnmowers.

(C) A taxpayer purchases three airplanes and provides the seller with a resale exemption certificate. Taxpayer then offers the airplanes for rental. Taxpayer must collect and remit tax on the rental payments for the airplanes. Subsequently, taxpayer begins offering private charter services in addition to airplane rental. Taxpayer uses the rental airplanes to perform the private charter services. Taxpayer owes tax on the original purchase price of any airplanes used in the private charter service and should continue to pay tax on any future rental payments for such airplanes. Taxpayer should also continue to collect tax on the rental payments paid for any airplanes that are not used for private charters.

(D) A financial services company provides stock prices and other financial data to subscribers for a fee. The information is transmitted to the subscribers electronically. To receive the information, subscribers are required to use equipment provided by the financial services company. The subscription fee includes the price charged for the use of the equipment. Title to the equipment remains with the financial services company. The charges for the

equipment do not constitute rental payments. The financial services company should pay tax on its purchase of the equipment.

(E) Same facts as subsection (4)(D) except the use of the equipment provided by the financial service company is not required or necessary to receive the data. The charges paid by the customers for the use of the equipment are rent, and are subject to tax, unless the company paid tax on its purchase of the equipment.

(F) A taxpayer leases twelve computers and provides the lessor with a resale exemption certificate. The taxpayer then subleases the computers to its customers. The sublease of the computers by the taxpayer is subject to tax, however, the original lease of the computers is not subject to tax.

(G) A charitable organization that has received a letter of exemption from the Department of Revenue leases a photocopier for use in its office. The lease payments are exempt from tax, provided the organization uses the copier in its charitable functions.

(H) A doctor purchases a medical device from a medical supply company and pays tax on the purchase price. Subsequently, the doctor enters into a sale and leaseback agreement with a leasing company. Pursuant to the agreement, the doctor transfers title to the medical device to the leasing company, and in return, the company pays the doctor the purchase price of the device. The agreement states that the leasing company will hold title to the medical device and lease it to the doctor. The lease payments will cover the full purchase price of the device plus interest. Title to the device will transfer back to the doctor for no additional consideration after all of the lease payments are paid. The agreement also states that the leasing company has no right to control or possess the medical device, as long as the doctor complies with the agreement. The leasing company holds no ownership interest in the property and does not claim any deduction with respect to the property on its federal income tax returns. Based on these facts, the leasing company only has a security interest in the medical device. The sale and leaseback agreement will be treated as a financing transaction, and neither the sale price paid by the leasing company nor the lease payments are subject to tax.

(I) Same facts as subsection (4)(H) except the sale and leaseback agreement expressly provides that the leasing company is entitled to all deductions, credits, and other tax benefits provided under federal tax law to the owner of the property. The leasing company claims a depreciation deduction with respect to the medical device. The sale and leaseback agreement will be treated as a sale and a subsequent lease, and taxed as any other sale and lease.

(J) An appliance store purchases a washing machine from a manufacturer, and presents a resale exemption certificate to the manufacturer. The store subsequently leases the washing machine to a customer pursuant to a "lease-purchase" agreement. Under the agreement, the customer may purchase the washing machine at any time, by paying the agreed purchase price. Any lease payments paid by the customer will reduce the purchase price. The lease payments and the purchase option price are both subject to tax.

(K) A construction company leases a bulldozer from an equipment company that has its business office in Jefferson City, Cole County, Missouri. The construction company picks up the bulldozer from the leasing company's warehouse in Cape Girardeau, Missouri. The construction company then transports the bulldozer to its jobsite in Illinois. The construction company owes sales tax on the lease payments at the rate applicable to Jefferson City, Cole County, Missouri.

(L) Same facts as subsection (4)(K) except the leasing company delivers the bulldozer to the Illinois jobsite. The lease payments are not subject to Missouri tax.

(M) A Missouri construction company leases a crane from an Iowa equipment company. The crane is delivered to the construction company at its office in Kirkwood, St. Louis County, Missouri and used on construction jobs in Rolla and Springfield, Missouri. The construction company should pay Missouri use tax

and any local use tax at the rate applicable to Kirkwood, St. Louis County, Missouri.

(N) Same facts as (4)(M) except the construction company picks up the crane in Iowa and brings it to St. Louis County. The construction company should pay Missouri use tax and any local use tax at the rate applicable to Kirkwood, St. Louis County, Missouri.

AUTHORITY: section 144.020, RSMo Supp. 2001. Original rule filed April 1, 2002.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Revenue, Office of Legislation and Regulations, PO Box 629, Jefferson City, MO 65105. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 2—DEPARTMENT OF AGRICULTURE Division 30—Animal Health Chapter 2—Health Requirements for Movement of Livestock, Poultry and Exotic Animals

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 267.645, RSMo 2000, the director withdraws a rule as follows:

2 CSR 30-2.010 Health Requirements Governing the Admission of Livestock, Poultry and Exotic Animals Entering Missouri is withdrawn.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 3, 2001 (26 MoReg 2263–2264). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: The acting state veterinarian received one (1) written comment on the proposed amendment.

COMMENT: Dr. Robert L. Fischer, Area Veterinarian in Charge—Missouri, with the United States Department of Agriculture, Veterinary Services commented that our regulations should conform with national Uniform Methods and Rules on Tuberculosis and Brucellosis which would allow for maximum protection against tuberculosis and brucellosis for the Missouri Cervidae industry and would make Missouri consistent with national policy.

RESPONSE: Suggestion will be taken and (13)(D) will be consistent with national Uniform Methods and Rules on Tuberculosis and Brucellosis.

COMMENT: Further administrative review of the proposed amendment resulted in change of terminology to be more consistent with the Uniform Methods and Rules on Tuberculosis and Brucellosis for Captive Cervids.

RESPONSE: The director of the Department of Agriculture is withdrawing this rulemaking because further comments have been received expressing increasing concerns with emerging elk diseases.

Title 2—DEPARTMENT OF AGRICULTURE Division 30—Animal Health Chapter 2—Health Requirements for Movement of Livestock, Poultry and Exotic Animals

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 267.645, RSMo 2000, the director withdraws a rule as follows:

2 CSR 30-2.040 Animal Health Requirements for Exhibition is withdrawn.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 3, 2001 (26 MoReg 2265–2266). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: The acting state veterinarian received one (1) written comment on the proposed amendment.

COMMENT: Dr. Robert L. Fischer, Area Veterinarian in Charge—Missouri, with the United States Department of Agriculture, Veterinary Services commented that our regulations should conform with national Uniform Methods and Rules on Tuberculosis and Brucellosis which would allow for maximum protection against tuberculosis and brucellosis for the Missouri Cervidae industry and would make Missouri consistent with national policy.

RESPONSE: Suggestion will be taken and (9)(D) will be consistent with national Uniform Methods and Rules on Tuberculosis and Brucellosis.

COMMENT: Further administrative review of the proposed amendment resulted in change of terminology to be more consistent with the Uniform Methods and Rules on Tuberculosis and Brucellosis for Captive Cervids.

RESPONSE: The director of the Department of Agriculture is withdrawing this rulemaking because further comments have been received expressing increasing concerns with emerging elk diseases.

Title 2—DEPARTMENT OF AGRICULTURE Division 30—Animal Health Chapter 6—Livestock Markets

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Agriculture under section 277.160, RSMo 2000, the director withdraws a rule as follows:

2 CSR 30-6.020 Duties and Facilities of the Market/Sale Veterinarian is withdrawn.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 3, 2001 (26 MoReg 2267-2268). This proposed amendment is withdrawn.

SUMMARY OF COMMENTS: The acting state veterinarian received one (1) written comment on the proposed amendment.

COMMENT: Dr. Robert L. Fischer, Area Veterinarian in Charge—Missouri, with the United States Department of Agriculture, Veterinary Services commented that our regulations should conform with national Uniform Methods and Rules on Tuberculosis and Brucellosis which would allow for maximum protection against tuberculosis and brucellosis for the Missouri Cervidae industry and would make Missouri consistent with national policy.

RESPONSE: Suggestion will be taken and (7)(D) will be consistent with national Uniform Methods and Rules on Tuberculosis and Brucellosis.

COMMENT: Further administrative review of the proposed amendment resulted in change of terminology to be more consistent with the Uniform Methods and Rules on Tuberculosis and Brucellosis for Captive Cervids.

RESPONSE: The director of the Department of Agriculture is withdrawing this rulemaking because further comments have been received expressing increasing concerns with emerging elk diseases.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects,
Professional Engineers and Professional Land
Surveyors
Chapter 5—Examinations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers and Professional Land Surveyors under sections 327.041, RSMo Supp. 2001 and 327.241 and 327.251, RSMo 2000, the board amends a rule as follows:

4 CSR 30-5.105 Reexamination—Engineers is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 3, 2001 (26 MoReg 2269). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects,
Professional Engineers and Professional Land
Surveyors
Chapter 5—Examinations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers and Professional Land Surveyors under

section 327.041, RSMo Supp. 2001, the board rescinds a rule as follows:

4 CSR 30-5.110 Standards for Admission to Examination—Land Surveyors is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on December 3, 2001 (26 MoReg 2269). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects,
Professional Engineers and Professional Land
Surveyors
Chapter 5—Examinations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers and Professional Land Surveyors under sections 327.041 and 327.314, RSMo Supp. 2001 and 327.312, RSMo 2000, the board adopts a rule as follows:

4 CSR 30-5.110 Standards for Admission to Examination—Professional Land Surveyors is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 3, 2001 (26 MoReg 2270). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 30—Missouri Board for Architects,
Professional Engineers and Professional Land
Surveyors
Chapter 11—Renewals**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Architects, Professional Engineers and Professional Land Surveyors under sections 327.041, RSMo Supp. 2001 and 327.261, RSMo 2000, the board adopts a rule as follows:

4 CSR 30-11.015 is adopted.

A notice of the proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 3, 2001 (26 MoReg 2270-2275). The section with changes is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Twelve comments were received.

COMMENT: Several commenters suggested that continued professional competency for professional engineers would be cost prohibitive.

RESPONSE: There are many opportunities for getting Professional Development Hours (PDHs). For instance, most professional organizations (Missouri Society of Professional Engineers (MSPE), American Society of Mechanical Engineers (ASME), and others) will have seminars and other sessions that will be acceptable. Also, seminars, professional sessions or other in-house courses provided by places of employment will be considered. Internet study guides, televised or videotaped courses and other self-study guides will also be considered. In light of all available opportunities, there will be no financial waivers granted. No changes were made in response to the comments.

COMMENT: One commenter stated that the estimated public entity cost is significantly underestimated. With nearly 16,000 licensed professional engineers, there will be significant effort required to review the documentation submitted.

RESPONSE: The review of documentation will be performed on a sampling basis and will not be done on all licensed professional engineers. Thus, the cost is appropriately stated. No change was made in response to the comment.

COMMENT: One commenter requested a waiver from obtaining PDHs because of a disability.

RESPONSE: There are alternative media guides for obtaining PDHs. Internet study guides, videotapes and other self-study guides will also be considered. Additionally, a licensee may choose to have his license placed in an inactive status until such time that the PDHs are accumulated (Chapter 327.271, RSMo). However, a person whose license is inactive shall not offer or practice professional engineering in the state of Missouri but may continue to use the title "professional engineer" or the initials "P.E." after such person's name. No changes were made in response to the comment.

COMMENT: One commenter stated that continued education would not benefit the profession.

RESPONSE: The board will be following the "Model" developed by the National Council of Examiners for Engineers and Surveyors (NCEES) for continuing education units. Missouri will follow the Model to ensure that when professional engineers transfer to another state their credits will be consistent with their requirements. For information purposes, as of 1999 there were 19 states that have the Continued Professional Competence (CPC) requirement with five others in the process of having rules and regulations developed for the process with Missouri being one of those states. Additionally, the board received information from the National Council of Examiners for Engineers and Surveyors (NCEES) that in 1999, a survey indicated that 7 of the states that had continued professional competency may have reduced the number of licensees but in many cases it was persons that were no longer in active practice. Also, it appears there has been a reduction in most states with the number of violations and complaints. No change was made in response to the comment.

COMMENT: One commenter requested pre-approval of credits for obtaining PDHs.

RESPONSE: The engineering profession is too broad to pre-approve credits and will be done on a case-by-case basis. No change was made in response to the comment.

COMMENT: A commenter asked why this regulation was proposed.

RESPONSE: Missouri Society of Professional Engineers (MSPE) as well as other professional societies have been promoting the Continued Professional Competence (CPC) requirement and push-

ing for legislation for many years. No change was made in response to the comment.

COMMENT: A commenter asked if there would be a six-month grace period in which to obtain credits.

RESPONSE: No grace period will be allowed. No changes were made in response to the comment.

COMMENT: A commenter requested a certain number of PDHs for teaching of qualified materials, for publishing articles, papers and books and for active participation in professional or technical societies.

RESPONSE: The board will be following the "Model" developed by the National Council of Examiners for Engineers and Surveyors (NCEES) for continuing education units to ensure that when professional engineers transfer to another state their credits will be consistent with their requirements. No changes were made in response to the comment.

COMMENT: Two commenters asked for clarification on how long the PDU records should be maintained.

RESPONSE: The board is requiring the retention of records for four (4) years for auditing purposes. Any licensee who completes more than thirty (30) professional development hours within the preceding two (2) calendar years may apply the excess, which is not to exceed fifteen (15) hours, to the requirement for the next two (2)-year period. If the records are not maintained for at least four years, proving the excess PDHs would be nearly impossible. No changes were made in response to the comment.

COMMENT: A commenter made comments mostly editorial in nature.

RESPONSE: The board noted the following recommended changes. On page 2273, Table of Personal Service costs, the Executive Director's cost per audit should be \$36.67. On page 2273, last paragraph, next to the last line, the word "biennially" should be changed to "biennial". Lastly, on page 2275, last paragraph, change the word "beinnially" to "biennially".

COMMENT: A commenter stated his concern that it might deter young engineers from becoming licensed.

RESPONSE: The board received information from the National Council of Examiners for Engineers and Surveyors (NCEES) that in 1999 a survey indicated that 7 of the states that had continued professional competency may have reduced the number of licensees but in many cases it was persons that were no longer in active practice. Also, it appears there has been a reduction in most states with the number of violations and complaints. No changes were made in response to the comment.

COMMENT: A commenter requested a waiver for serving in the military during the renewal period.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed this comment and decided to amend subsection (1)(D) as follows. This change also prompted the board to define the term PDH in subsection (1)(A).

4 CSR 30-11.015 Continuing Professional Competency for Professional Engineers

(1) Purpose.

(A) Effective December 31, 2004, as a condition for renewal of an engineering license issued pursuant to section 327.261, RSMo a licensee shall have successfully completed thirty (30) professional development hours, as defined by this regulation, within the two (2) immediately preceding years (renewal period). Any licensee who completes more than thirty (30) professional development hours within the preceding two (2) calendar years may apply the excess, not to exceed fifteen (15) hours, to the requirement for the next two (2)-year period.

(D) If the licensee served honorably on full-time active duty in the military, the licensee may renew his/her license without completing the PDH requirement for the renewal period during which the licensee served.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 2—Cosmetology Schools**

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.040, 329.050 and 329.210, RSMo Supp. 2001 and 329.120 and 329.230, RSMo 2000, the board amends a rule as follows:

4 CSR 90-2.010 Schools is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 14). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 2—Cosmetology Schools**

ORDER OF RULEMAKING

By the authority vested in the state Board of Cosmetology under sections 329.040 and 329.210, RSMo Supp. 2001 and 329.230, RSMo 2000, the board amends a rule as follows:

4 CSR 90-2.020 Manicuring Schools is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 14). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 2—Cosmetology Schools**

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.040 and 329.210, RSMo Supp. 2001 and 329.230, RSMo 2000, the board amends a rule as follows:

4 CSR 90-2.030 Esthetic Schools is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 14-15). No changes have been made to the text of the proposed amendment, so it is not reprinted here.

This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 4—Beauty Shops**

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.110.2 and 329.230, RSMo 2000 and 329.210, RSMo Supp. 2001, the board amends a rule as follows:

**4 CSR 90-4.020 Practice Outside of or Away from Beauty Shops
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 15). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 8—Training Hours**

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.040 and 329.210, RSMo Supp. 2001 and 329.230, RSMo 2000, the board amends a rule as follows:

4 CSR 90-8.010 Hours is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 15). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 12—Instructor Trainees**

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.120 and 329.230, RSMo 2000 and 329.210, RSMo Supp. 2001, the board amends a rule as follows:

**4 CSR 90-12.080 Renewal Requirements for Instructor License
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 15-16). No changes have been made to the text of the proposed amendment, so it is not reprinted here.

This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 90—State Board of Cosmetology
Chapter 13—General Rules**

ORDER OF RULEMAKING

By the authority vested in the State Board of Cosmetology under sections 329.120 and 329.230, RSMo 2000 and 329.210, RSMo Supp. 2001, the board adopts a rule as follows:

4 CSR 90-13.070 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 2, 2002 (27 MoReg 16). Changes have been made to the title of the proposed rule and the authority section, so they are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received. However, upon the board's review of the proposed rule, the board changed the title of the rule to include a change of name and corrected the authority section of the rule.

4 CSR 90-13.070 Change of Name and Mailing Address

AUTHORITY: sections 329.120 and 329.230, RSMo 2000 and 329.210, RSMo Supp. 2001. Original rule filed Nov. 30, 2001.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 110—Missouri Dental Board
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under section 332.031.3, RSMo 2000, the board amends a rule as follows:

4 CSR 110-2.170 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 100-103). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 110—Missouri Dental Board
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under sections 332.031, RSMo 2000, 332.181 and 332.261, RSMo Supp. 2001, the board amends a rule as follows:

4 CSR 110-2.240 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 104-105). The section with changes to the proposed amendment is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS AND EXPLANATION OF CHANGE: No comments were received; however, the board noted that due to a typographical error in section (2)(C) the word "year" at the end of the sentence was placed inside a bracket for deletion that should have not been deleted. A change has been made to subsection (2)(C) to correct this error and it is reprinted here.

4 CSR 110-2.240 Continuing Dental Education

(2) In order to renew a license, each dentist shall submit satisfactory evidence of completion of fifty (50) hours of continuing education during the two (2)-year period immediately preceding the renewal period and each dental hygienist shall submit satisfactory evidence of completion of thirty (30) hours of continuing education during the two (2)-year period immediately preceding the renewal period. Any hours acquired beyond the required number may be carried forward into the next time block not to exceed twenty-five (25) hours for dentists and fifteen (15) hours for dental hygienists. Of the fifty (50) hours required for dentists, not less than forty (40) must be hours directly related to the updating and maintaining of knowledge and skills in the treatment, health and safety of the individual dental patient. Of the thirty (30) hours required for dental hygienists, not less than twenty-five (25) must be hours directly related to the updating and maintaining of knowledge and skills in the treatment, health and safety of the individual dental patient. One (1) hour of continuing education shall be granted for every fifty to sixty (50-60) minutes of contact (either academic or clinical) instruction.

(C) A credential dental licensee will only be required to obtain twenty-five (25) hours of continuing education in order to renew if the individual became licensed during the second year of the time block. A credential hygiene licensee will only be required to obtain fifteen (15) hours of continuing education in order to renew if the individual became licensed during the second year of the time block.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 205—Missouri Board of Occupational Therapy
Chapter 1—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Occupational Therapy under sections 324.065 and 610.010-610.200, RSMo 2000 and Supp. 2001, the board rescinds a rule as follows:

4 CSR 205-1.030 Policy for Release of Public Records is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 2, 2002 (27 MoReg 18). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 205—Missouri Board of Occupational Therapy
Chapter 3—Licensure Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Occupational Therapy under sections 324.050, 324.056, 324.065, 324.068, 324.071, RSMo 2000 and 324.086, RSMo Supp. 2001, the board amends a rule as follows:

4 CSR 205-3.010 Application or Licensure as an Occupational Therapist is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 18). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 205—Missouri Board of Occupational Therapy
Chapter 3—Licensure Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Board of Occupational Therapy under sections 324.050, 324.056, 324.065, 324.068, 324.071, RSMo 2000, and 324.086, RSMo Supp. 2001, the board amends a rule as follows:

4 CSR 205-3.020 Application for Licensure as an Occupational Therapy Assistant is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 18). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 210—State Board of Optometry
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the State Board of Optometry under sections 336.080 and 336.160.1, RSMo 2000, the board amends a rule as follows:

4 CSR 210-2.030 License Renewal is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 105). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 210—State Board of Optometry
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the State Board of Optometry under section 336.160, RSMo 2000, the board amends a rule as follows:

4 CSR 210-2.070 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 105-106). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 220—State Board of Pharmacy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.140, RSMo 2000, 338.220, RSMo Supp. 2001 and the Omnibus State Reorganization Act of 1974 (Appendix B), the board amends a rule as follows:

4 CSR 220-2.020 Pharmacy Permits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 18-19). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 220—State Board of Pharmacy
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the State Board of Pharmacy under sections 338.140, 338.240 and 338.280, RSMo 2000 and 338.210 and 338.220, RSMo Supp. 2001, the board adopts a rule as follows:

4 CSR 220-2.650 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 2, 2002 (27 MoReg 19). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One (1) comment was received.

COMMENT: One (1) comment was received from the National Association of Chain Drug Stores. The comment applauded the Board of Pharmacy for its progressive proposal that should encourage pharmacies to take advantage of central fill and processing technology. However, the commenter was concerned about (1)(B) "There must be separate and distinct record keeping systems between shared service pharmacies....." The commenter felt this language was open to various interpretations and should be clarified by the Board.

RESPONSE AND EXPLANATION OF CHANGE: The board disagreed with the comments. However, after review of the entire rule along with the comment received, it was the board's opinion that the sentence in question, as well as other areas of the rule, could be clarified further by the addition and/or deletion of certain words. The board made minor changes to the rule as indicated in this order of rulemaking.

4 CSR 220-2.650 Standards of Operation for a Class J: Shared Services Pharmacy

(1) Class J: Shared Services: Shared Service Pharmacy is defined as the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order, or that performs or assists in the performance of functions associated with the dispensing process, drug utilization review (DUR), claims adjudication, refill authorizations, and therapeutic interventions.

(A) A pharmacy may perform or outsource centralized prescription processing services provided the parties:

1. Have the same owner, or have a written contract outlining the services to be provided and the responsibilities and accountabilities of each party in fulfilling the terms of said contract in compliance with federal and state laws and regulations;
2. Maintain separate licenses for each location involved in providing shared services; and
3. Share a common electronic file to allow access to sufficient information necessary or required to fill or refill a prescription drug order.

(B) There must be record keeping systems between shared service pharmacies with real time on-line access to shared services by both pharmacies. Transfer of prescription information between two (2) pharmacies that are accessing the same real-time, on-line database pursuant to the operation of a shared service pharmacy operation shall not be considered a prescription transfer and, therefore, is not subject to the requirements of 4 CSR 220-2.120.

(C) The parties performing or contracting for centralized prescription processing services shall maintain a policy and procedures manual and documentation that implementation is occurring in a manner that shall be made available to the board for review upon request and that includes, but is not limited to, the following:

1. A description of how the parties will comply with federal and state laws and regulations;
2. The maintenance of appropriate records to identify the responsible pharmacist(s) in the dispensing and counseling processes;
3. The maintenance of a mechanism for tracking the prescription drug order during each step in the process;
4. The provision of adequate security to protect the confidentiality and integrity of patient information;
5. The maintenance of a quality assurance program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care and resolve identified problems.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 255—Missouri Board for Respiratory Care Chapter 2—Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Respiratory Care under sections 334.800, 334.840.2 and 334.850(2), (4), (6), RSMo 2000 and 334.870, RSMo Supp. 2001, the board amends a rule as follows:

4 CSR 255-2.010 Application for Licensure is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 17, 2001 (26 MoReg 2404). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 255—Missouri Board for Respiratory Care Chapter 2—Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Respiratory Care under sections 334.800, 334.840.2 and 334.850(2), RSMo 2000 and 334.890.2 and 3, RSMo Supp. 2001, the board amends a rule as follows:

4 CSR 255-2.020 Application for Temporary Permit is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 17, 2001 (26 MoReg 2404-2405). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 255—Missouri Board for Respiratory Care Chapter 2—Licensure Requirements

ORDER OF RULEMAKING

By the authority vested in the Missouri Board for Respiratory Care under sections 334.800, 334.840.2 and 334.850, RSMo 2000 and 334.890.1 and 3, RSMo Supp. 2001, the board amends a rule as follows:

4 CSR 255-2.030 Application for an Educational Permit is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 17, 2001 (26 MoReg 2405). No changes have been made to the text of the proposed amendment, so it is not reprinted

here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Teacher Certification and Professional
Conduct and Investigations**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 161.092, 168.011, 168.021, 168.071, 168.081, 168.400, 168.405 and 168.409, RSMo 2000, the board amends a rule as follows:

5 CSR 80-800.360 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 3, 2001 (26 MoReg 2290–2291). One change has been made in the text of the proposed amendment and is reprinted here for clarity. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Elementary and Secondary Education received forty-nine (49) written comments regarding the proposed amendment, from legislators, parents, teachers, private schools, and Missouri NEA.

COMMENT: All 49 of the comments from legislators, parents, teachers, private schools, and Missouri NEA received were supportive of the proposed language to allow approved teaching experience for those employed in schools using the expanded description of the approving or accrediting agencies and their affiliates.
RESPONSE: No change was made to the proposed amendment.

COMMENT: One comment was received from the Missouri National Education Association (MNEA) expressing concern for the language in section (13)(A) requiring an individual to have a bachelor's degree or higher in order to qualify for a provisional certificate. It was thought that a candidate might be caught between the requirement of the rule and the requirement in some institutions that candidates successfully complete the designated assessment for certification in order to satisfy degree requirements. The comment also supported the language allowing individuals participating in post-baccalaureate or alternative professional education programs to receive a provisional certificate of license to teach.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully reviewed the comments and amends section (13)(A) by deleting the phrase "a bachelor's or higher degree and" from the text. It has been determined that the intent of this section of the rule can be accomplished with the remaining language.

**5 CSR 80-800.360 Certificate of License to Teach
Classifications**

(13) Provisional certificates of license to teach may be issued to an individual for two (2) years and may be extended upon a showing of good cause. Provisional certificates of license to teach may be issued in the following situations:

(A) The individual has completed the academic requirements for a certificate of license to teach, but has not taken or passed the exit assessment(s) designated by the board;

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 805—Teacher Education**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 161.092, 161.097, 168.011, 168.021 and 168.081, RSMo 2000, the board adopts a rule as follows:

5 CSR 80-805.030 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 3, 2001 (26 MoReg 2291–2296). Those sections with changes are reprinted here for clarity. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Elementary and Secondary Education received four (4) written comments.

COMMENT: Two (2) comments from faculty members at the University of Missouri–Columbia suggested revising definitions to include language addressing non-conventional rather than non-traditional programs and students in order to make the language more consistent with the rest of the rule. Comments also suggested that having language pertaining both to innovative programs and alternative programs was unnecessary and the rule should only address alternative programs. The comments also stated a lack of rationale for not allowing the areas of early childhood education, elementary education and special education to be included among the alternative program offerings. It was further indicated that the requirement of having previous work experience placed an unnecessary requirement on potential participants and the programs involved.

RESPONSE AND EXPLANATION OF CHANGE: The board has carefully considered the comments and changed subsections (1)(A) and (1)(E) to include language addressing non-conventional rather than non-traditional programs and students in order to make the language more consistent with the rest of the rule. It has been determined that the sections of the proposed rule having to do with innovative programs are necessary to provide some flexibility for program approval. Subsection (2)(A) has been deleted from the proposed rule. An institution should have the capability of developing alternative programs for any certification area for which it has state approval. Subsection (4)(E) has been deleted from the proposed rule. It is assumed that the faculty at the institution offering the alternative program can determine whether or not a potential candidate has kept current in the area of his degree.

COMMENT: A faculty member from Harris-Stowe State College stated several concerns regarding the concept of alternative professional education programs, and specifically suggested that a "sunset provision" should be placed on the date of the degree required for participation in an alternative program.

RESPONSE: The Department carefully considered the comment and no additional change to the proposed rule was made.

COMMENT: An assistant superintendent in the Fort Osage School District stated that the language in the proposed rule regarding qualifications of participants in alternative professional education programs should be made more compatible with the qualifications for the Temporary Authorization Certificate.

RESPONSE AND EXPLANATION OF CHANGE: The Department carefully considered the comment, which contributed to the rationale for the change made to subsection (4)(E).

5 CSR 80-805.030 Innovative and Alternative Professional Education Programs

(1) For purposes of this rule, unless the context clearly indicates otherwise, the following terms shall mean:

(A) Alternative program. A program for the preparation of professional school personnel that provides a curriculum for non-conventional candidates enabling them to meet the requirements for state certification;

(B) Conceptual framework. The rationale and organizing principles that guide the development of the knowledge base, structure, operation, curriculum and accountability for a professional education program;

(C) Conventional program. A program for the preparation of professional school personnel incorporating a four (4)-year plan of general education, content and professional studies and designed for candidates who enter college upon graduation from high school;

(D) Innovative program. A program for the preparation of professional school personnel that incorporates innovative ways of delivering an institution's prescribed curriculum (ex. field-based instruction, distance learning via telecommunications or Internet, etc.); and/or

(E) Non-conventional candidate. An individual enrolled in a program of instruction at a college or university who has not followed a path of continued enrollment from high school. A non-conventional candidate is typically more than twenty-five (25) years of age.

(2) An institution of higher education having state-approved conventional professional education programs qualifying candidates for a Missouri certificate of license to teach may also offer innovative or alternative programs leading to a certificate of license to teach.

(A) An institution seeking to offer an alternative certification program must have a conventional Department of Elementary and Secondary Education (DESE) approved professional education program in the same area of certification existing at its home campus.

(B) An institution seeking to offer an innovative or alternative professional education program shall submit a proposal to the Teacher Education Section at DESE addressing the elements discussed in this section. Only those programs which DESE determines to have merit and potential for providing quality preparation for candidate certification will be considered for approval. The proposals should include at a minimum the following elements:

1. A description of the proposed program based upon a statement of the purpose and objectives for an area of the public school curriculum and a statement of the nature of the proposed program that is consistent with those objectives, the mission of the institution, and the conceptual framework for the professional education unit. These statements shall be collaboratively prepared and shall be based on analyses of current practices and trends in the identified area of the public school curriculum;

2. A clearly formulated statement of the competencies for educators in the identified area of the public school curriculum. These competencies shall include subject knowledge and professional skills based upon current research and practice and shall include the competencies for educators identified in standards for professional education programs adopted by the State Board of Education (the board);

3. A curriculum matrix delineating the courses and supervised field experiences prescribed to address competencies appropriate for a beginning teacher candidate to meet state certification requirements, a description of the process by which the candidates will be prepared, and provisions for assessing candidates and keeping records of their progress through the program;

4. Identification of the administrative structure of the proposed program indicating that responsibility for the program is

vested in the professional education unit of the institution. Institutions shall designate the appropriate department, division, school, or college within the institution to act within the framework of general institutional policies on all matters relating to such programs;

5. Clearly identified human and physical resources to support the program. The continuing availability of the resources shall be assured for the duration of the program. Any resources not under the control of the institution shall be defined and confirmed by the controlling agency; and

6. A written plan for the continuing evaluation of the proposed program including definition and specification of the kinds of evidence that will be gathered and reported to the institution and the state education agency at designated intervals. Evaluation reports shall provide information to identify areas in the program that need to be strengthened and/or to suggest new directions for program development.

(C) Innovative and alternative programs shall abide by and be evaluated according to the Missouri standards for professional education programs included in rules promulgated by the board.

(4) Candidates meeting certain criteria may be accepted into an alternative certification program offered by a Missouri college or university. These criteria include:

(E) The candidate shall participate in a structured interview conducted by the teacher education institution to assess the candidate's beliefs regarding the nature of teaching, the nature of students and the mission and goals of education as a profession. The interview should be utilized for screening, diagnostic and advising purposes;

(F) The candidate shall complete coursework, which addresses adolescent development, psychology of learning, and teaching methodology in the content area, prior to receiving provisional certification and entering a public school classroom;

(G) Upon successful completion of the coursework outlined in the previous subsection, the candidate will enter into a four (4)-party contract with the recommending college or university, the employing Missouri school district, and DESE. Candidates will receive a two (2)-year provisional certificate of license to teach and shall:

1. Be assigned by the school district a mentor who teaches the same subject and approximately the same grade level to observe and work with the candidate while s/he is teaching during the school day until the candidate completes the alternative program;

2. Receive any additional assistance, as determined by the college or university, until the candidate completes the alternative program;

3. Participate in the employing district's professional development programs;

4. Participate in the district's Performance-Based Teacher Evaluation (PBTE) program; and

5. Continue professional growth to include thirty (30) clock-hours of in-service training as defined in criteria established by the board; and

(H) The candidate shall complete at least eight (8) semester hours of professional education coursework no later than the summer following the awarding of the provisional certificate.

Title 9—DEPARTMENT OF MENTAL HEALTH
Division 25—Fiscal Management
Chapter 2—Purchase of Service Contracting

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Mental Health under sections 577.001 and 630.050, RSMo Supp. 2001, the director amends a rule as follows:

9 CSR 25-2.505 Protest and Appeal Procedures is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 109–110). No changes have been made in the text of the proposed amendment, so it is not reprinted here. The proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments have been received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 1—Organization and Administration**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.805 and 313.817, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-1.090 Definitions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 121). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004 and 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.400 Occupational Licensure Levels is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 121). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.800 and 313.850, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.410 Identification Badge Requirements is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on

January 16, 2002 (27 MoReg 121–122). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 4—Licenses**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.800 and 313.850, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-4.420 Occupational License is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 122). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004 and 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-5.290 Bingo Games is adopted.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 122–123). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 8—Accounting Records and Procedures;
Audits**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.805 and 313.825, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-8.050 Standard Financial and Statistical Reports is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 128). No changes have been made

in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 12—Liquor Control**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004 and 313.805, RSMo 2000 and 313.840, RSMo Supp. 2001, the commission amends a rule as follows:

11 CSR 45-12.090 Rules of Liquor Control is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 128). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 13—Hearings**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission under sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 2000, the commission amends a rule as follows:

11 CSR 45-13.070 Transmittal of Record and Recommendation to the Commission is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 128-129). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 73—Missouri Board of Nursing Home
Administrators
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Board of Nursing Home Administrators under section 344.070, RSMo 2000, the board amends a rule as follows:

13 CSR 73-2.015 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 19-20). No changes have been made in the text of the proposed amendment, so it is not reprinted here.

This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Health Care Association complimented the Board for moving quickly and making the necessary changes when issues developed involving the state portion of the examination.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 73—Missouri Board of Nursing Home
Administrators
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Board of Nursing Home Administrators under section 344.070, RSMo 2000, the board amends a rule as follows:

13 CSR 73-2.070 Examination is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 2, 2002 (27 MoReg 20). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Health Care Association complimented the Board for moving quickly and making the necessary changes when issues developed involving the state portion of the examination.

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.200 Purpose and Structure is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 141). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR
SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.200 Purpose and Structure is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 141). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

**19 CSR 60-50.300 Definitions for the Certificate of Need
Process is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 142). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR
SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.300 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 142-143). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held February 15, 2002. The Certificate of Need Program staff, on behalf of the Missouri Health Facilities Review Committee, received two (2) comments on this rule.

COMMENT: Harvey Tettlebaum, representing the Missouri Health Care Association, commented that subsection (5) describes expedited applications and then states for all other applications a "full review" must be undertaken. The term "full review" is not specifically defined in the regulations. It would be appropriate to define "full review."

RESPONSE AND EXPLANATION OF CHANGE: A new definition was added as section (6) and the subsequent sections were

renumbered accordingly as follows: "Full review means the complete analytical period for applications as described in 19 CSR 60-50.420 and 19 CSR 60-50.430 for the development of health care facilities and acquisition of major medical equipment."

COMMENT: Harvey Tettlebaum, representing the Missouri Health Care Association, commented that service area in subsection (16) is defined as "a geographic region appropriate to the proposed service, documented by the applicant and approved by the Committee." No longer included in the definition is a review area defined as a geographic region within a 15-mile radius of the proposed site. As a result, service areas will no longer be limited to a 15-mile radius. This includes proposed service areas for long-term care applications. An applicant for additional long-term care beds would be able to include, as a service area for purposes of a population base, any geographic area larger than 15 miles. The Committee cannot consider any facility beyond that 15-mile radius. section 197.315.11, RSMo 2000. Thus, the applicant could include the population but exclude facilities that are beyond a 15-mile radius of the proposed long-term care facility site. This would not accurately reflect need. Because section 197.318.1, RSMo 2000 specifically includes counties and a 15-mile radius in determining whether occupancy requirements for additional long-term care beds have been met, and because of the population-based need formula for determining beds needed, the definition of service area should specifically indicate that for long-term care facilities, the service area will remain the 15-mile radius. To provide otherwise, as the proposed rule states, is beyond the scope and the authority of the Committee. This is also consistent with 19 CSR 60-50.430(4)(C).

RESPONSE AND EXPLANATION OF CHANGE: Section (16) was modified to add "For long-term care projects, the 15-mile radius calculation must be used." and renumbered to section (17).

**19 CSR 60-50.300 Definitions for the Certificate of Need
Process**

(6) Full review means the complete analytical period for applications as described in 19 CSR 60-50.420 and 19 CSR 60-50.430 for the development of health care facilities and acquisition of major medical equipment.

(7) Generally accepted accounting principles pertaining to capital expenditures include, but are not limited to—

(A) Expenditures related to acquisition or construction of capital assets;

(B) Capital assets are investments in property, plant and equipment used for the production of other goods and services approved by the committee; and

(C) Land is not considered a capital asset until actually converted for that purpose with commencement of aboveground construction approved by the committee.

(8) Health care facility means those described in section 197.366, RSMo.

(9) Health care facility expenditure includes the capital value of new construction or renovation costs, architectural/engineering fees, equipment not in the construction contract, land acquisition costs, consultants' legal fees, interest during construction, predevelopment costs as defined in section 197.305(13), RSMo, in excess of one hundred fifty thousand dollars (\$150,000), any existing land and building converted to medical use for the first time, and any other capitalizable costs as listed on the "Proposed Project Budget" form MO 580-1863.

(10) Health maintenance organizations means entities as defined in section 354.400(10), RSMo, except for activities directly related to the provision of insurance only.

(11) Interested party means any licensed health care provider or other affected person who has expressed an interest in the Certificate of Need (CON) process or a CON application.

(12) Major medical equipment means any piece of equipment and collection of functionally related devices acquired to operate the equipment and additional related costs such as software, shielding, and installation, with an aggregate cost of one (1) million dollars or more, when the equipment is intended to provide the following services:

- (A) Cardiac Catheterization;
- (B) CT (Computed Tomography);
- (C) Gamma Knife;
- (D) Hemodialysis;
- (E) Lithotripsy;
- (F) MRI (Magnetic Resonance Imaging);
- (G) PET (Positron Emission Tomography);
- (H) Linear Accelerator;
- (I) Open Heart Surgery;
- (J) EBCT (Electron Beam Computed Tomography);
- (K) PET/CT (Positron Emission Tomography/Computed Tomography); or
- (L) Evolving Technology.

(13) Nonsubstantive project includes, but is not limited to, at least one (1) of the following situations:

(A) An expenditure which is required solely to meet federal or state requirements or involves predevelopment costs or the development of a health maintenance organization;

(B) The construction or modification of nonpatient care services, including parking facilities, sprinkler systems, heating or air-conditioning equipment, fire doors, food service equipment, building maintenance, administrative equipment, telephone systems, energy conservation measures, land acquisition, medical office buildings, and other projects or functions of a similar nature; or

(C) Expenditures for construction, equipment, or both, due to an act of God or a normal consequence of maintenance, but not replacement, of health care facilities, beds, or equipment.

(14) Offer, when used in connection with health services, means that the applicant asserts having the capability and the means to provide and operate the specified health services.

(15) Predevelopment costs mean expenditures as defined in section 197.305(13), RSMo, including consulting, legal, architectural, engineering, financial and other activities directly related to the proposed project, but excluding the application fee for submission of the application for the proposed project.

(16) Related organization means an organization that is associated or affiliated with, has control over or is controlled by, or has any direct financial interest in, the organization applying for a project including, without limitation, an underwriter, guarantor, parent organization, joint venturer, partner or general partner.

(17) Service area means a geographic region appropriate to the proposed service, documented by the applicant and approved by the committee. For long-term care projects, the fifteen (15)-mile radius calculation must be used.

(18) The most current version of Form MO 580-1863 may be obtained by mailing a written request to the Certificate of Need Program (CONP), 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the form from the CONP website at www.dhss.state.mo.us/conp.

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.310 Guidelines for Specific Health Services is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 143). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.400 Letter of Intent Process is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 143-144). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR
SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.400 Letter of Intent Process is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 144-145). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.410 Letter of Intent Package is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 145). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR
SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.410 Letter of Intent Package is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 145-147). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.420 Application Process is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 148). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR
SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.420 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 148-149). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held February 15, 2002. The Certificate of Need Program staff, on behalf of the Missouri Health Facilities Review Committee, received four (4) comments on this rule.

COMMENT: Harvey Tettlebaum, representing the Missouri Health Care Association, commented that section (3)(B) provides that, for expedited applications, the schedule shall include the filing date, the description of the service, place for filing comments, any requests for public hearing and the tentative decision dates for that expedited application. Publication of expedited applications will be by submitting a list to the Secretary of State's office and posting it on the CON website. The notification on the website should also show the name of the facility to which the purchased or relocated beds are going together with the exact location to which the beds purchased or relocated will be going, the name of the facility from which the beds are being purchased or name of the facility which is being relocated. In other words, the buyer and sellers of the beds and those relocating facilities should be included in the notice provided for in this section. This is necessary to adequately inform the public.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (3)(B) was modified to add the words "including the name and location of all participating facilities" after the words "a brief description of the proposed service."

COMMENT: Harvey Tettlebaum, representing the Missouri Health Care Association, commented that in section (8)(B), in addition to publishing notice of the expedited applications, the Certificate of Need Program staff should publish on its website its written analysis as it is completed to give time for public comment.

RESPONSE: The Certificate of Need Program staff analyses for all reviews are published on the website at least ten (10) days in advance of Committee action. No changes have been made as a result of this comment.

COMMENT: Harvey Tettlebaum, representing the Missouri Health Care Association, commented this rule should include a process for withdrawal of applications, suggesting that the language from the rescinded 19 CSR 60-50.420(9) be included, as follows: "An applicant may withdraw an application without prejudice by written notice at any time prior to the Committee's decision. Later submission of the same application or an amended application shall be handled as a new application with a new fee."

RESPONSE AND EXPLANATION OF CHANGE: The suggested language was added as a new section (10).

COMMENT: Steve Feldman, representing the Certificate of Need Program staff, commented that this rule should include a statement that the Committee may consider other factors in addition to the Community Need Criteria and Standards, suggesting that the language from the rescinded 19 CSR 60-50.420(10) be included, as follows: "In addition to using the Community Need Criteria and Standards as guidelines, the Committee may also consider other factors to include, but not be limited to, the number of patients requiring treatment, the changing complexity of treatment, unique obstacles to access, competitive financial considerations, or the specialized nature of the service."

RESPONSE AND EXPLANATION OF CHANGE: The suggested language was added as a new section (11).

19 CSR 60-50.420 Review Process

(3) All filings must occur at the principal office of the committee during regular business hours. The CONP staff, as an agent of the committee, shall provide notification of applications received through publication of the Application Review Schedule (schedule), as follows:

(B) For expedited applications the schedule shall include the filing date of the application, a brief description of the proposed service, including the name and location of all participating facilities, the time and place for filing comments and requests for a public hearing, and the tentative decision date for the application. Publication of the schedule shall occur on the next business day after the filing deadline. The publication of the schedule is conducted through the following actions:

1. The schedule shall be submitted to the secretary of state's office for publication in the next regularly scheduled *Missouri Register*; and

2. The schedule shall be posted on the CON website.

(10) An applicant may withdraw an application without prejudice by written notice at any time prior to the committee's decision. Later submission of the same application or an amended application shall be handled as a new application with a new fee.

(11) In addition to using the Community Need Criteria and Standards as guidelines, the committee may also consider other factors to include, but not be limited to, the number of patients requiring treatment, the changing complexity of treatment, unique obstacles to access, competitive financial considerations, or the specialized nature of the service.

Title 19—DEPARTMENT OF HEALTH Division 60—Missouri Health Facilities Review Committee Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.430 Application Package is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 149). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 60—Missouri Health Facilities Review Committee

Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.430 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 149-152). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held February 15, 2002. The Certificate of Need Program staff, on behalf of the Missouri Health Facilities Review Committee, received one (1) comment on this rule. This proposed rule contained two sections numbered as section (4). Sections (4) and (5) of this rule are reprinted here as (5) and (6) for clarification.

COMMENT: Steve Feldman, representing the Certificate of Need Program staff, commented that in subsection (2)(E), the words "Service-Specific" should be changed to "Community Need."

RESPONSE AND EXPLANATION OF CHANGE: Subsection (2)(E) was modified to change "Service-Specific" to "Community Need."

19 CSR 60-50.430 Application Package

(2) A written application package consisting of an original and eleven (11) bound copies (comb or three (3)-ring binder) shall be prepared and organized as follows:

(E) The application package should document the need or meet the additional information requirements in 19 CSR 60-50.450(4)-(6) for the proposal by addressing the applicable Community Need Criteria and Standards using the standards in 19 CSR 60-50.440 through 19 CSR 60-50.460 plus providing additional documentation to substantiate why any proposed alternative Criteria and Standards should be used.

(5) Document that consumer needs and preferences have been included in planning this project. Describe how consumers have had an opportunity to provide input into this specific project, and include in this section all petitions, letters of acknowledgement, support or opposition received.

(6) The most current version of Forms MO 580-2501, MO 580-2502, MO 580-2503, MO 580-2504, MO 580-2505, MO 580-1861, MO 580-1869 and MO 580-1863 may be obtained by mailing a written request to the Certificate of Need Program (CONP), 915G Leslie Boulevard, Jefferson City, MO 65101, or in person at the CONP Office, or, if technically feasible, by downloading a copy of the forms from the CONP website at www.dhss.state.mo.us/conp.

Title 19—DEPARTMENT OF HEALTH Division 60—Missouri Health Facilities Review Committee Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.440 Criteria and Standards for Hospital and Freestanding Health Services is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 153). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.440 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 153-154). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held February 15, 2002. The Certificate of Need Program staff, on behalf of the Missouri Health Facilities Review Committee, received five (5) comments on this rule.

COMMENT: Steve Feldman, representing the Certificate of Need Program staff, commented that subsection (1)(A) should be modified to delete the word “geographic,” change the words “service-specific” to “community need,” change the “S” in the population-based need formula to “R,” and add the words “as follows” after the word “rates,” and subsection (1)(B) should be modified to add the words “community need” after the word “following” and add the words “as follows” after the word “rates.”

RESPONSE AND EXPLANATION OF CHANGE: Subsections (1)(A) and (1)(B) were modified as suggested.

COMMENT: Steve Feldman, representing the Certificate of Need Program staff, commented that subsection (1)(D) should be modified to read as follows: “Alternate methodologies may be provided.”

RESPONSE AND EXPLANATION OF CHANGE: Subsection (1)(D) was modified as suggested.

COMMENT: Steve Feldman, representing the Certificate of Need Program staff, commented that subsection (2) should be modified to add the words “community need” after the word “following” and add the words “as follows” after the word “rates.”

RESPONSE AND EXPLANATION OF CHANGE: Section (2) was modified as suggested.

COMMENT: Steve Feldman, representing the Certificate of Need Program staff, commented that subsection (4) should be modified

to delete the word “geographic” in subsections (4)(B) and (4)(C), delete the word “geographic” in subsection (4)(D), change the words “service-specific” to “community need,” change the “S” in the population-based need formula to “R,” and add the words “as follows” after the word “rates.”

RESPONSE AND EXPLANATION OF CHANGE: Section (4) was modified as suggested.

COMMENT: Robert Cimasi commented that maintaining review of medical equipment for ambulatory surgery centers in this rule violates the intent of the sunset provisions of section 197.366 of the CON Statute.

RESPONSE: The sunset provision in section 197.366 only changed the definition of the term “health care facilities,” but left intact the expenditure minimum for review of acquisition of major medical equipment. Major medical equipment is reviewed regardless of setting if its cost exceeds the expenditure minimum. No changes have been made to the rule as a result of this comment.

19 CSR 60-50.440 Criteria and Standards for Equipment and New Hospitals

(1) For new units or services in the service area, use the following methodologies:

(A) The population-based need formula should be (Unmet Need = $(R \times P) - U$)

where:

P = Year 2005 population in the service area(s);

U = Number of service units in the service area(s); and

R = Community need rate of one (1) unit per population

listed as follows:

1. Magnetic resonance imaging unit	100,000
2. Positron emission tomography unit	500,000
3. Lithotripsy unit	1,000,000
4. Linear accelerator unit	100,000
5. Adult cardiac catheterization lab	50,000
6. Pediatric cardiac catheterization lab	50,000
7. Adult open heart surgery rooms	100,000
8. Pediatric open heart surgery rooms	100,000
9. All general surgery	10,000
10. Gamma knife	7,500,000
11. Excimer laser	500,000

(B) The minimum annual utilization for all other providers in the service area should achieve at least the following community need rates as follows:

1. Magnetic resonance imaging procedures	2,000
2. Positron emission tomography procedures	1,000
3. Lithotripsy treatments	1,000
4. Linear accelerator treatments	3,500
5. Adult cardiac catheterization procedures (include coronary angioplasties)	500
6. Pediatric cardiac catheterization procedures	250
7. Adult open heart surgery operations	200
8. Pediatric open heart surgery operations	100
9. All general surgery	750
10. Gamma knife treatments	200
11. Hemodialysis treatments	200
12. Excimer laser procedures	1,800

(D) Alternate methodologies may be provided.

(2) For additional units or services, the applicant’s optimal annual utilization should achieve at least the following community need rates as follows:

(4) For the construction of a new hospital, the following questions should be answered:

(A) What methodology was utilized to determine the need for the proposed hospital?

(B) Provide evidence that the current occupancy of other hospitals in the proposed service area exceeds eighty percent (80%).

(C) What impact would the proposed hospital have on utilization of other hospitals in the service area?

(D) What is the unmet need according to the following population-based bed need formula using (Unmet Need = $(R \times P) - U$), where:

P = Year 2005 population in the service area;

U = Number of beds in the service area; and

R = Community need rate of one (1) bed per population as follows:

1. Medical/surgical bed	570
2. Pediatric bed	8,330
3. Psychiatric bed	2,080
4. Substance abuse/chemical dependency bed	20,000
5. Inpatient rehabilitation bed	9,090
6. Obstetric bed	5,880

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.450 Criteria and Standards for Long-Term Care is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 154). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.450 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 154-155). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held February 15, 2002. The Certificate of Need Program staff, on behalf of the Missouri Health Facilities Review Committee, received three (3) comments on this rule.

COMMENT: Harvey Tettlebaum, representing the Missouri Health Care Association, commented that for this rule to be consistent with section 197.318, it should include within it a specific

statement that the LTC population-based bed need methodology (53 beds per 1,000 population age 65 and older for ICF/SNFs) shall be within a 15-mile radius of the proposed site. Likewise, similar language should be added with regard to the population-based formula for RCF beds.

RESPONSE AND EXPLANATION OF CHANGE: Section (2) was modified to add the words "long-term care" after the word "population-based" and to add the words "for the 15-mile radius" after the words "bed need methodology."

COMMENT: Harvey Tettlebaum, representing the Missouri Health Care Association, commented that it is not clear in subsection (8)(D) whether the determination of need is population-based or determination of need to renovate and modernize. If it is the latter, it is redundant considering the other five questions.

RESPONSE: Subsection (8)(D) refers to other than a population-based need, and although most applicants will find it to be "not applicable," it is not redundant. It is the opportunity for the applicant to indicate other need methodologies used. The Applicant's Completeness Checklist further clarifies this point. No changes have been made in the rule as a result of this comment.

COMMENT: Harvey Tettlebaum, representing the Missouri Health Care Association, commented that subsection (8) is an entirely new section relating to long-term care renovation and modernization projects. The five standards or questions are taken from a regulation that covers a broad range of replacements and renovations. Given the age of the nursing home stock in Missouri, there may be other reasons for renovations, such as simply the need to modernize. The five criteria do not cover this contingency. Therefore, we suggest you add a sixth criterion, such as: "The benefits to the facility because of its age or condition."

RESPONSE AND EXPLANATION OF CHANGE: A new subsection (8)(F) was added to add a sixth criterion.

19 CSR 60-50.450 Criteria and Standards for Long-Term Care

(2) The MOR for additional LTC beds pursuant to section 197.318.1, RSMo, shall be met if the average occupancy for all licensed and available LTC beds located within the county and within fifteen (15) miles of the proposed site exceeded ninety percent (90%) during at least each of the most recent four (4) consecutive calendar quarters at the time of application filing as reported in the Division of Health Standards and Licensure (DHSL), Department of Health and Senior Services, Quarterly Survey of Hospital and Nursing Home (or Residential Care Facility) Bed Utilization and certified through a written finding by the DHSL, in which case the following population-based long-term care bed need methodology for the fifteen (15)-mile radius shall be used to determine the maximum size of the need:

(8) For LTC renovation or modernization projects which do not include increasing the number of beds, the applicant should document the following, if applicable:

(D) The methodologies used for determining need;

(E) The rationale for the reallocation of space and functions; and

(F) The benefits to the facility because of its age or condition.

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.460 Criteria and Standards for Other Health Services and Emerging Technology **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 155-156). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.460 Criteria and Standards for Evolving Technology **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 156). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.470 Criteria and Standards for Financial Feasibility **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 156). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.470 Criteria and Standards for Financial Feasibility **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 156-157). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.480 Criteria and Standards for Alternatives **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 157). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.500 Additional Information **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 157-158). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.500 Additional Information is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 158). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.600 Certificate of Need Decisions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 158). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR
SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.600 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 158-159). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held February 15, 2002. The Certificate of Need Program staff, on behalf of the Missouri Health Facilities Review Committee, received one (1) comment on this rule.

COMMENT: Harvey Tettlebaum, representing the Missouri Health Care Association, commented that this rule should be made clear that an absolute majority of the Committee members must have voted on the project and that at least a majority of this absolute majority voted in the affirmative.

RESPONSE AND EXPLANATION OF CHANGE: This change would make balloting consistent with the absolute majority required under *Robert's Rules of Order* used at regular Committee meetings. Subsection (2)(C) was modified to change the words "a majority is required" to "at least five ballots are required."

19 CSR 60-50.600 Certificate of Need Decisions

(2) Decisions on expedited CON applications shall be subject to the following:

(C) A final decision to approve the application will be rendered if all ballots received by the cut-off date (at least five (5) ballots are required) signifying a vote to approve the project. If the vote is not unanimous, the application will be subject to the provisions of section (1) of this rule.

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.700 Post-Decision Activity is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 159). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND SENIOR
SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.700 Post-Decision Activity is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 159-160). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.800 Meeting Procedures is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 160). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.800 Meeting Procedures is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 160-161). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee rescinds a rule as follows:

19 CSR 60-50.900 Administration is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 161). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Health Facilities Review Committee under section 197.320, RSMo 2000, the committee adopts a rule as follows:

19 CSR 60-50.900 Administration is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 16, 2002 (27 MoReg 161-162). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 20—DEPARTMENT OF INSURANCE
Division 500—Property and Casualty
Chapter 6—Workers' Compensation and Employer's Liability

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Insurance under section 374.045, RSMo 2000, the director withdraws a proposed rescission as follows:

20 CSR 500-6.700 Premium Discounts for Using Managed Care Programs is withdrawn.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 1, 2001 (26 MoReg 2136). A notice of proposed rulemaking containing a companion proposed rule to replace the proposed rescission was also published in the *Missouri Register*, starting on the same page. The proposed rule is withdrawn elsewhere in this *Missouri Register*, in response to the disapproval of the proposed rule by the Joint Committee on Administrative Rules (JCAR). The proposed rescission is also hereby withdrawn.

SUMMARY OF COMMENTS: A public hearing on the proposed rescission was held on December 12, 2001, and the period for written public comments was kept open until December 14, 2001. A hearing on the proposed rescission was held in conjunction with the hearing on a companion proposed rule intended to replace the rescinded rule. No comments specifically addressed to the proposed rescission were received; however, numerous comments were made regarding the companion proposed rule, which are summarized elsewhere in this *Missouri Register*.

RESPONSE: Based on the comments received regarding the companion proposed rule, the department modified the proposed rule where it deemed doing so was appropriate and, on February 8, 2002, submitted final orders of rulemaking to the Joint Committee on Administrative Rules (JCAR) regarding both the proposed rescission and the proposed rule. JCAR held a hearing on the proposed rule on March 7, 2002, at which time the committee voted to disapprove the proposed rule. As a result of JCAR's disapproval, the department decided to withdraw the proposed rescission and the proposed rule.

Title 20—DEPARTMENT OF INSURANCE
Division 500—Property and Casualty
Chapter 6—Workers' Compensation and Employer's Liability

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Insurance under section 374.045, RSMo 2000, the director withdraws a proposed rule as follows:

20 CSR 500-6.700 Workers' Compensation Managed Care Organizations is withdrawn.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 2001 (26 MoReg 2136–2157). In response to the disapproval of the proposal by the Joint Committee on Administrative Rules, the proposed rule is hereby withdrawn.

SUMMARY OF COMMENTS: A public hearing on the proposed rule was held on December 12, 2001, and the period for written public comments was kept open until December 14, 2001. Numerous oral and written comments were received from various workers' compensation managed care organizations (MCOs), individual workers' compensation insurers, insurance industry trade associations, health care provider organizations, individual employers, employer associations, and two elected state Representatives. Except for the "qualified" support of a single insurer, the comments regarding the proposed rule were negative. The central criticism from MCOs and insurers was that the proposal violated the statutory intent of the General Assembly behind section 287.135, RSMo. MCOs said the statute was intended to allow employers to freely choose their MCO, a choice that could, they argued, be effectively vetoed under the proposal by an employer's insurer. Insurers, in contrast, argued that the statute was not intended to guarantee such unfettered choice.

MCOs and provider groups also argued that the proposal penalized employers who selected "out-of-network" providers and that it would have had the indirect effect of limiting the reimbursement to health care providers in an unacceptably restrictive manner. Provider groups argued the rule should have required MCO networks to include chiropractors and also should have allowed employers the full freedom of choice of case management nurses.

Insurers and insurance industry associations argued the proposal would be administratively burdensome, that it would improperly restrict an insurer's right to set the premium charged for a policy, and that it failed to adequately define "reasonable MCO fees." MCOs argued certain requirements under the proposal for certification were unnecessary or inappropriate. Employer groups were concerned that the rule might result in higher premiums.

Numerous technical changes were also suggested by various parties.

RESPONSE: The department modified the proposed rule where it deemed doing so was appropriate and submitted a final order of rulemaking to the Joint Committee on Administrative Rules (JCAR) on February 8, 2002. JCAR held a hearing on the order on March 7, 2002. At that hearing, members of JCAR noted the ambiguities in the underlying statutes, which made drafting a rule in conformity with the General Assembly's intent problematic. Committee members indicated that their understanding of the legislative intent behind the statutes was to have the department develop a rule that allowed employers to select their own MCOs and have their insurers pay the reasonable and customary administrative fees of such employer-selected MCOs. The committee requested that the department submit a rule to it as soon as possible along such lines, after which the committee voted to disapprove the department's order of rulemaking on the proposed rule. As a result of JCAR's disapproval, the department has decided to withdraw the proposed rule.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN**

**Division 10—Health Care Plan
Chapter 2—Plan Options**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director amends a rule as follows:

22 CSR 10-2.010 Definitions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 164). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN**

**Division 10—Health Care Plan
Chapter 2—Plan Options**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director amends a rule as follows:

**22 CSR 10-2.040 PPO Plan Summary of Medical Benefits is
amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 164–166). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN**

**Division 10—Health Care Plan
Chapter 2—Plan Options**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director amends a rule as follows:

**22 CSR 10-2.045 Co-Pay Plan Summary of Medical Benefits is
amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 167–168). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN**

**Division 10—Health Care Plan
Chapter 2—Plan Options**

ORDER OF RULEMAKING

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director amends a rule as follows:

22 CSR 10-2.055 Co-Pay Plan Benefit Provisions and Covered Charges is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 169-170). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options
ORDER OF RULEMAKING**

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director amends a rule as follows:

22 CSR 10-2.063 HMO/POS Premium Option Summary of Medical Benefits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 171-172). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options
ORDER OF RULEMAKING**

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director amends a rule as follows:

22 CSR 10-2.064 HMO/POS Standard Option Summary of Medical Benefits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 173-174). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options
ORDER OF RULEMAKING**

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director rescinds a rule as follows:

22 CSR 10-2.065 Staff Model Summary of Medical Benefits is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on January 16, 2002 (27 MoReg 175). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options
ORDER OF RULEMAKING**

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director amends a rule as follows:

22 CSR 10-2.067 HMO and POS Limitations is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 175). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 22—MISSOURI CONSOLIDATED HEALTH
CARE PLAN
Division 10—Health Care Plan
Chapter 2—Plan Options
ORDER OF RULEMAKING**

By the authority vested in the Missouri Consolidated Health Care Plan under section 103.059, RSMo 2000, the director amends a rule as follows:

22 CSR 10-2.075 Review and Appeals Procedure is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 16, 2002 (27 MoReg 175-176). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
915 G Leslie Boulevard
Jefferson City, MO 65101

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 60—Missouri Health Facilities Review Committee

Chapter 50—Certificate of Need Program

APPLICATION REVIEW SCHEDULE

For additional information contact
Donna Schuessler, 573-751-6403.

DATE FILED:
APPLICATION PROJECT NO. &
NAME/COST & DESCRIPTION/
CITY & COUNTY

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. Decisions are tentatively scheduled for the June 3, 2002, Certificate of Need meeting. These applications are available for public inspection at the address shown below:

03/21/02

#3225 HS: Lester E. Cox Medical Center
Springfield (Greene County)
\$6,191,794, Acquire two magnetic
resonance imagers (MRI)

03/22/02

#3226 HS: Lester E. Cox Medical Center
Springfield (Greene County)
\$4,353,530, Acquire two linear accelerators

#3227 FS: Siketon Imaging Center, LLC
Siketon (Scott County)
\$1,500,000, Acquire MRI

#3223 FS: Kansas City Oncology Hematology Group
Lee's Summit (Jackson County)
\$1,375,000, Acquire mobile positron emission
tomography scanner

#3224 FS: Kansas City Oncology Hematology Group
Kansas City (Jackson County)
\$2,246,000, Acquire linear accelerator

#3196 FS: Springfield Neurological Institute, LLC
Springfield (Greene County)
\$1,700,000, Acquire MRI

#3229 HS: Saint Luke's Hospital
Lee's Summit (Jackson County)
\$87,965,000, Establish 52-bed acute care hospital

#3228 FS: Metro Imaging LLC
St. Louis (St. Louis County)
\$1,505,000, Replace MRI

Any person wishing to request a public hearing for the purpose of commenting on any of these applications must submit a written request to this effect, which must be received by April 23, 2002. All written requests and comments should be sent to:

**OFFICE OF ADMINISTRATION
Division of Purchasing**

BID OPENINGS

Sealed Bids in one (1) copy will be received by the Division of Purchasing, Room 580, Truman Building, PO Box 809, Jefferson City, MO 65102, telephone (573) 751-2387 at 2:00 p.m. on dates specified below for various agencies throughout Missouri. Bids are available to download via our homepage: www.moolb.state.mo.us. Prospective bidders may receive specifications upon request.

B1E02264 Envelopes, Recycled 5/1/02;
B3E02171 Banking Services 5/1/02;
B3E02191 Printing: Hunter Education Manual 5/1/02;
B2Z02069 Networking Products: Cisco Products 5/2/02;
B3E02177 Parent Advisor 5/2/02;
B1E02276 Aluminum License Plate 5/3/02;
B1Z02187 Maintenance Service: Mailing Equipment 5/6/02;
B2E02074 Microfiche System Upgrade 5/6/02;
B1E02252 Equipment, Lab: Particulate Speciation Sampler 5/7/02;
B3Z02179 Printing Services: Missouri Resources Magazine 5/13/02;
B3Z02172 Research Services-Show-Me The Connection 5/15/02;
B3E02198 Printing-Discover Outdoor Missouri Map 5/16/02;
B2Z02070 ETL Software & Support Services 5/17/02;
B3Z02162 Exhibit Design, Construction & Installation 5/23/02.

It is the intent of the State of Missouri, Division of Purchasing to purchase the following as a single feasible source without competitive bids. If suppliers exist other than the one identified, contact (573) 751-2387 immediately.

Thermo Cycler & Nucleic Acid Purification System, supplied by Roche Diagnostic Systems of Indianapolis, IN.

Automated Extraction System, supplied by ThermoFinnigan of Woodstock, GA.

Proprietary Purchase-Software Upgrade to Bell & Howell Systems, supplied by Bell & Howell.

Information Technology Consulting, supplied by IBM Corporation.

James Miluski, CPPO,
Director of Purchasing

**Rule Changes Since Update to
Code of State Regulations**

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—25 (2000), 26 (2001) and 27 (2002). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable and RUC indicates a rule under consideration.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
OFFICE OF ADMINISTRATION					
1 CSR 10	State Officials' Salary Compensation Schedule				25 MoReg 2478
1 CSR 50-3.010	Missouri Ethics Commission		26 MoReg 2219	27 MoReg 413	27 MoReg 189
DEPARTMENT OF AGRICULTURE					
2 CSR 10-5.010	Market Development	26 MoReg 1305R			
	.....	26 MoReg 1305			
2 CSR 10-5.015	Market Development	26 MoReg 2217	27 MoReg 451		
2 CSR 30-2.010	Animal Health	26 MoReg 2257	26 MoReg 2263	This IssueW	
	.....		This Issue		
2 CSR 30-2.040	Animal Health	26 MoReg 2257	26 MoReg 2265	This IssueW	
	.....		This Issue		
2 CSR 30-6.020	Animal Health	26 MoReg 2258	26 MoReg 2267	This IssueW	
	.....		This Issue		
2 CSR 80-5.010	State Milk Board		27 MoReg 396		
2 CSR 90-10.012	Weights and Measures		27 MoReg 7		
2 CSR 90-10.013	Weights and Measures		27 MoReg 9		
2 CSR 90-10.020	Weights and Measures		27 MoReg 9		
2 CSR 90-10.040	Weights and Measures		27 MoReg 11		
2 CSR 90-20.040	Weights and Measures		27 MoReg 454		
2 CSR 90-22.140	Weights and Measures		27 MoReg 454		
2 CSR 90-23.010	Weights and Measures		27 MoReg 454		
2 CSR 90-25.010	Weights and Measures		27 MoReg 455		
DEPARTMENT OF CONSERVATION					
3 CSR 10-4.111	Conservation Commission		27 MoReg 226	27 MoReg 631	
3 CSR 10-5.550	Conservation Commission		27 MoReg 455		
3 CSR 10-5.551	Conservation Commission		27 MoReg 456		
3 CSR 10-9.353	Conservation Commission	27 MoReg 547	27 MoReg 552		
3 CSR 10-9.565	Conservation Commission	27 MoReg 548	27 MoReg 553		
3 CSR 10-9.566	Conservation Commission	27 MoReg 549	27 MoReg 554		
DEPARTMENT OF ECONOMIC DEVELOPMENT					
4 CSR 10-2.022	Missouri State Board of Accountancy	26 MoReg 2345	26 MoReg 2348		
4 CSR 10-2.041	Missouri State Board of Accountancy	26 MoReg 2346	26 MoReg 2352		
4 CSR 10-2.061	Missouri State Board of Accountancy	26 MoReg 2346	26 MoReg 2352		
4 CSR 10-2.160	Missouri State Board of Accountancy	26 MoReg 1501	26 MoReg 2353		
4 CSR 30-3.020	Missouri Board for Architects, Professional Engineers and Professional Land Surveyors		26 MoReg 2075	27 MoReg 493	
4 CSR 30-3.030	Missouri Board for Architects, Professional Engineers and Professional Land Surveyors		26 MoReg 2076	27 MoReg 493	
4 CSR 30-3.040	Missouri Board for Architects, Professional Engineers and Professional Land Surveyors		26 MoReg 2077	27 MoReg 493	
4 CSR 30-4.080	Missouri Board for Architects, Professional Engineers and Professional Land Surveyors		26 MoReg 2078R	27 MoReg 494R	
	.....		26 MoReg 2078	27 MoReg 494	
4 CSR 30-5.105	Missouri Board for Architects, Professional Engineers and Professional Land Surveyors		26 MoReg 2269	This Issue	
4 CSR 30-5.110	Missouri Board for Architects, Professional Engineers and Professional Land Surveyors		26 MoReg 2269R	This IssueR	
	.....		26 MoReg 2270	This Issue	
4 CSR 30-5.120	Missouri Board for Architects, Professional Engineers and Professional Land Surveyors		26 MoReg 2083R	27 MoReg 494R	
	.....		26 MoReg 2083	27 MoReg 494	
4 CSR 30-5.130	Missouri Board for Architects, Professional Engineers and Professional Land Surveyors		26 MoReg 2083R	27 MoReg 494R	
	.....		26 MoReg 2083	27 MoReg 495	
4 CSR 30-11.015	Missouri Board for Architects, Professional Engineers and Professional Land Surveyors		26 MoReg 2270	This Issue	
4 CSR 40-1.010	Office of Athletics		26 MoReg 2354R	27 MoReg 631R	
4 CSR 40-1.021	Office of Athletics		26 MoReg 2354R	27 MoReg 631R	
	.....		26 MoReg 2354	27 MoReg 631	
4 CSR 40-1.030	Office of Athletics		26 MoReg 2355R	27 MoReg 632R	
4 CSR 40-1.031	Office of Athletics		26 MoReg 2355R	27 MoReg 632R	
4 CSR 40-2.011	Office of Athletics		26 MoReg 2356R	27 MoReg 632R	
	.....		26 MoReg 2356	27 MoReg 632	
4 CSR 40-2.021	Office of Athletics		26 MoReg 2365R	27 MoReg 632R	
	.....		26 MoReg 2365	27 MoReg 632	
4 CSR 40-3.011	Office of Athletics		26 MoReg 2369R	27 MoReg 632R	
	.....		26 MoReg 2369	27 MoReg 633	

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 40-4.015	Office of Athletics		26 MoReg 2372R	27 MoReg 633R	
4 CSR 40-4.020	Office of Athletics		26 MoReg 2372	27 MoReg 633	
			26 MoReg 2376R	27 MoReg 633R	
4 CSR 40-4.030	Office of Athletics		26 MoReg 2376	27 MoReg 633	
			26 MoReg 2376R	27 MoReg 633R	
4 CSR 40-4.040	Office of Athletics		26 MoReg 2377	27 MoReg 634	
			26 MoReg 2382R	27 MoReg 634R	
4 CSR 40-4.050	Office of Athletics		26 MoReg 2382	27 MoReg 634	
			26 MoReg 2384R	27 MoReg 634R	
4 CSR 40-4.060	Office of Athletics		26 MoReg 2384	27 MoReg 634	
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13 CSR 15-4.260	Division of Aging (<i>Changed to 19 CSR 15-4.260</i>)				27 MoReg 513
13 CSR 15-4.270	Division of Aging (<i>Changed to 19 CSR 15-4.270</i>)				27 MoReg 513
13 CSR 15-4.280	Division of Aging (<i>Changed to 19 CSR 15-4.280</i>)				27 MoReg 513
13 CSR 15-4.290	Division of Aging (<i>Changed to 19 CSR 15-4.290</i>)				27 MoReg 513
13 CSR 15-4.300	Division of Aging (<i>Changed to 19 CSR 15-4.300</i>)				27 MoReg 513
13 CSR 15-4.310	Division of Aging (<i>Changed to 19 CSR 15-4.310</i>)				27 MoReg 513
13 CSR 15-6.020	Division of Aging (<i>Changed to 19 CSR 15-6.020</i>)				27 MoReg 513
13 CSR 15-6.025	Division of Aging (<i>Changed to 19 CSR 15-6.025</i>)				27 MoReg 513
13 CSR 15-7.005	Division of Aging (<i>Changed to 19 CSR 15-7.005</i>)				27 MoReg 514
13 CSR 15-7.010	Division of Aging (<i>Changed to 19 CSR 15-7.010</i>)				27 MoReg 514
13 CSR 15-7.021	Division of Aging (<i>Changed to 19 CSR 15-7.021</i>)		26 MoReg 2034	27 MoReg 509	27 MoReg 514 27 MoReg 514
13 CSR 15-7.040	Division of Aging (<i>Changed to 19 CSR 15-7.040</i>)				27 MoReg 514
13 CSR 15-7.050	Division of Aging (<i>Changed to 19 CSR 15-7.050</i>)				27 MoReg 514
13 CSR 15-7.060	Division of Aging (<i>Changed to 19 CSR 15-7.060</i>)				27 MoReg 514
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13 CSR 40-30.020	Division of Family Services.....	27 MoReg 391	27 MoReg 406		
13 CSR 40-60.050	Division of Family Services.....		27 MoReg 341		
13 CSR 70-10.050	Division of Medical Services.....		26 MoReg 2409	27 MoReg 651	

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13 CSR 70-20.031	Division of Medical Services		26 MoReg 2016	27 MoReg 651W	
13 CSR 70-20.034	Division of Medical Services		26 MoReg 2018	27 MoReg 651W ...	26 MoReg 2186
13 CSR 73-2.015	Missouri Board of Nursing				
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13 CSR 73-2.070	Missouri Board of Nursing				
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15 CSR 30-45.030	Secretary of State		27 MoReg 407R		
		27 MoReg 407		
15 CSR 30-50.010	Secretary of State		27 MoReg 129		
15 CSR 30-50.020	Secretary of State		27 MoReg 130R		
	.....		27 MoReg 130		
15 CSR 30-50.030	Secretary of State		27 MoReg 131R		
	.....		27 MoReg 131		
15 CSR 30-50.040	Secretary of State		27 MoReg 132R		
	.....		27 MoReg 132		
15 CSR 30-50.120	Secretary of State		27 MoReg 133R		
15 CSR 30-50.130	Secretary of State		27 MoReg 134R		
15 CSR 30-50.150	Secretary of State		27 MoReg 134R		
15 CSR 30-50.160	Secretary of State		27 MoReg 134R		
15 CSR 30-50.170	Secretary of State		27 MoReg 134R		
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		27 MoReg 136		
15 CSR 30-51.030	Secretary of State		27 MoReg 138R		
		27 MoReg 138		
15 CSR 30-51.160	Secretary of State		27 MoReg 139R		
	.....		27 MoReg 139		
15 CSR 30-51.180	Secretary of State		27 MoReg 251		
15 CSR 30-54.190	Secretary of State		26 MoReg 2303R		
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15 CSR 30-54.290	Secretary of State		27 MoReg 251		
15 CSR 30-55.010	Secretary of State		26 MoReg 2304R ...	27 MoReg 579R	
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15 CSR 30-55.020	Secretary of State		26 MoReg 2305R ...	27 MoReg 579R	
		26 MoReg 2305	27 MoReg 579	
15 CSR 30-55.025	Secretary of State		26 MoReg 2306	27 MoReg 580	
15 CSR 30-55.030	Secretary of State		26 MoReg 2306R ...	27 MoReg 580R	
	.....		26 MoReg 2306	27 MoReg 580	
15 CSR 30-55.040	Secretary of State		26 MoReg 2307R ...	27 MoReg 580R	
		26 MoReg 2307	27 MoReg 580	
15 CSR 30-55.050	Secretary of State		26 MoReg 2308R ...	27 MoReg 580R	
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15 CSR 30-55.070	Secretary of State		26 MoReg 2308R ...	27 MoReg 581R	
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15 CSR 30-55.090	Secretary of State		26 MoReg 2310R ...	27 MoReg 581R	
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15 CSR 30-55.110	Secretary of State		26 MoReg 2310R ...	27 MoReg 582R	
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15 CSR 30-55.220	Secretary of State		26 MoReg 2311	27 MoReg 582	
15 CSR 50-2.050	Treasurer		26 MoReg 2414	27 MoReg 582	
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16 CSR 10-4.014	The Public School Retirement System of Missouri		27 MoReg 465		
16 CSR 10-6.040	The Public School Retirement System of Missouri		27 MoReg 465		
16 CSR 20-2.056	Missouri Local Government Employees' Retirement				
	System (LAGERS)		26 MoReg 2311	27 MoReg 583	
16 CSR 20-2.083	Missouri Local Government Employees' Retirement				
	System (LAGERS)		26 MoReg 2312	27 MoReg 583	
16 CSR 20-3.010	Missouri Local Government Employees' Retirement				
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17 CSR 20-2.015	St. Louis Board of Police Commissioners		26 MoReg 2024		
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17 CSR 20-2.025	St. Louis Board of Police Commissioners		26 MoReg 2024		
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17 CSR 20-2.035	St. Louis Board of Police Commissioners		26 MoReg 2025		
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17 CSR 20-2.045	St. Louis Board of Police Commissioners		26 MoReg 2026		
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17 CSR 20-2.055	St. Louis Board of Police Commissioners		26 MoReg 2027		
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			27 MoReg 470		
17 CSR 20-2.075	St. Louis Board of Police Commissioners		26 MoReg 2028		
			27 MoReg 270		
17 CSR 20-2.085	St. Louis Board of Police Commissioners		26 MoReg 2028		
			27 MoReg 471		
17 CSR 20-2.095	St. Louis Board of Police Commissioners		26 MoReg 2029		
			27 MoReg 472		
17 CSR 20-2.105	St. Louis Board of Police Commissioners		26 MoReg 2030		
			27 MoReg 472		
17 CSR 20-2.115	St. Louis Board of Police Commissioners		26 MoReg 2031		
			27 MoReg 474		
17 CSR 20-2.125	St. Louis Board of Police Commissioners		26 MoReg 2032		
			27 MoReg 474		
17 CSR 20-2.135	St. Louis Board of Police Commissioners		26 MoReg 2033		
			27 MoReg 475		

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18 CSR 10-1.010	Office of State Public Defender	27 MoReg 476
18 CSR 10-2.010	Office of State Public Defender	27 MoReg 477
18 CSR 10-3.010	Office of State Public Defender	27 MoReg 477

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19 CSR 10-4.040	Office of the Director	27 MoReg 550	27 MoReg 571
19 CSR 10-4.050	Office of the Director	27 MoReg 482	
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19 CSR 15-2.010	Division of Senior Services		27 MoReg 512
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19 CSR 15-3.010	Division of Senior Services		27 MoReg 512
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19 CSR 15-3.020	Division of Senior Services		27 MoReg 513
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19 CSR 15-3.030	Division of Senior Services		27 MoReg 513
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19 CSR 15-3.040	Division of Senior Services		27 MoReg 513
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19 CSR 15-3.050	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.010	Division of Senior Services		27 MoReg 513
	(Changed from 13 CSR 15-4.010)		
19 CSR 15-4.020	Division of Senior Services		27 MoReg 513
	(Changed from 13 CSR 15-4.020)		
19 CSR 15-4.030	Division of Senior Services		27 MoReg 513
	(Changed from 13 CSR 15-4.030)		
19 CSR 15-4.040	Division of Senior Services		27 MoReg 513
	(Changed from 13 CSR 15-4.040)		
19 CSR 15-4.050	Division of Senior Services	27 MoReg 486	27 MoReg 513
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19 CSR 15-4.060	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.070	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.080	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.090	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.100	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.105	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.110	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.120	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.130	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.135	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.140	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.150	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.160	Division of Senior Services		27 MoReg 513
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19 CSR 15-4.180	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.180</i>)				27 MoReg 513
19 CSR 15-1.190	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.190</i>)				27 MoReg 513
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19 CSR 15-4.210	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.210</i>)				27 MoReg 513
19 CSR 15-4.220	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.220</i>)				27 MoReg 513
19 CSR 15-4.230	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.230</i>)				27 MoReg 513
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19 CSR 15-4.250	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.250</i>)				27 MoReg 513
19 CSR 15-4.260	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.260</i>)				27 MoReg 513
19 CSR 15-4.270	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.270</i>)				27 MoReg 513
19 CSR 15-4.280	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.280</i>)				27 MoReg 513
19 CSR 15-4.290	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.290</i>)				27 MoReg 513
19 CSR 15-4.300	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.300</i>)				27 MoReg 513
19 CSR 15-4.310	Division of Senior Services..... (<i>Changed from 13 CSR 15-4.310</i>)				27 MoReg 513
19 CSR 15-6.020	Division of Senior Services..... (<i>Changed from 13 CSR 15-6.020</i>)				27 MoReg 513
19 CSR 15-6.025	Division of Senior Services..... (<i>Changed from 13 CSR 15-6.025</i>)				27 MoReg 513
19 CSR 15-7.005	Division of Senior Services..... (<i>Changed from 13 CSR 15-7.005</i>)				27 MoReg 514
19 CSR 15-7.010	Division of Senior Services..... (<i>Changed from 13 CSR 15-7.010</i>)				27 MoReg 514
19 CSR 15-7.021	Division of Senior Services..... (<i>Changed from 13 CSR 15-7.021</i>)		26 MoReg 2034	27 MoReg 509	27 MoReg 514 27 MoReg 514
19 CSR 15-7.040	Division of Senior Services..... (<i>Changed from 13 CSR 15-7.040</i>)				27 MoReg 514
19 CSR 15-7.050	Division of Senior Services..... (<i>Changed from 13 CSR 15-7.050</i>)				27 MoReg 514
19 CSR 15-7.060	Division of Senior Services..... (<i>Changed from 13 CSR 15-7.060</i>)				27 MoReg 514
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19 CSR 60-50.450	Missouri Health Facilities Review.....	27 MoReg 83R	27 MoReg 154R	This IssueR	
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19 CSR 60-50.900	Missouri Health Facilities Review.....	27 MoReg 93R	27 MoReg 161R	This IssueR	
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19 CSR 90-1.010	Missouri Senior Rx Program.....	27 MoReg 303	27 MoReg 341		

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19 CSR 90-1.020	Missouri Senior Rx Program	27 MoReg 303	27 MoReg 342		
19 CSR 90-1.030	Missouri Senior Rx Program	27 MoReg 304	27 MoReg 343		
19 CSR 90-1.040	Missouri Senior Rx Program	27 MoReg 305	27 MoReg 346		
19 CSR 90-1.050	Missouri Senior Rx Program	27 MoReg 305	27 MoReg 346		
19 CSR 90-1.060	Missouri Senior Rx Program	27 MoReg 306	27 MoReg 349		
19 CSR 90-1.070	Missouri Senior Rx Program	27 MoReg 306	27 MoReg 349		
19 CSR 90-1.080	Missouri Senior Rx Program	27 MoReg 307	27 MoReg 349		
19 CSR 90-1.090	Missouri Senior Rx Program	27 MoReg 307	27 MoReg 350		
19 CSR 90-2.010	Missouri Senior Rx Program	27 MoReg 308	27 MoReg 350		
19 CSR 90-2.020	Missouri Senior Rx Program	27 MoReg 309	27 MoReg 351		
19 CSR 90-2.030	Missouri Senior Rx Program	27 MoReg 309	27 MoReg 351		
19 CSR 90-2.040	Missouri Senior Rx Program	27 MoReg 310	27 MoReg 352		
19 CSR 90-2.050	Missouri Senior Rx Program	27 MoReg 310	27 MoReg 352		
19 CSR 90-3.010	Missouri Senior Rx Program	27 MoReg 393	27 MoReg 410		
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20 CSR	Medical Malpractice		25 MoReg 597		
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20 CSR 10-1.020	General Administration	27 MoReg 162			
20 CSR 200-1.020	Financial Examination	27 MoReg 162			
20 CSR 200-11.130	Financial Examination	27 MoReg 163			
20 CSR 500-6.700	Property and Casualty	26 MoReg 2136R			
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22 CSR 10-2.010	Health Care Plan	27 MoReg 94	27 MoReg 164.....	This Issue	
22 CSR 10-2.040	Health Care Plan	27 MoReg 95	27 MoReg 164.....	This Issue	
22 CSR 10-2.045	Health Care Plan	27 MoReg 96	27 MoReg 167.....	This Issue	
22 CSR 10-2.055	Health Care Plan	27 MoReg 96	27 MoReg 169.....	This Issue	
22 CSR 10-2.063	Health Care Plan	27 MoReg 97	27 MoReg 171	This Issue	
22 CSR 10-2.064	Health Care Plan	27 MoReg 97	27 MoReg 173.....	This Issue	
22 CSR 10-2.065	Health Care Plan	27 MoReg 98R	27 MoReg 175R.....	This IssueR	
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22 CSR 10-2.075	Health Care Plan	27 MoReg 99	27 MoReg 175.....	This Issue	

Emergency Rules in Effect as of May 1, 2002**Expires****Department of Agriculture****Animal Health**

2 CSR 30-2.010	Health Requirements Governing the Admission of Livestock, Poultry and Exotic Animals Entering Missouri	May 10, 2002
2 CSR 30-2.040	Animal Health Requirements for Exhibition	May 10, 2002
2 CSR 30-6.020	Duties and Facilities of the Market/Sale Veterinarian	May 10, 2002
Plant Industries		
2 CSR 70-13.045	Registration of Apiaries	January 30, 2003
2 CSR 70-13.050	Cotton/Bee Protection Area	January 30, 2003

Department of Conservation**Conservation Commission**

3 CSR 10-9.353	Privileges for Class I and Class II Wildlife Breeders	September 16, 2002
3 CSR 10-9.565	Licensed Hunting Preserve: Privileges	September 16, 2002
3 CSR 10-9.566	Licensed Hunting Preserve: Records Required	September 16, 2002

Department of Economic Development**Missouri State Board of Accountancy**

4 CSR 10-2.022	Provisional License to Practice	May 23, 2002
4 CSR 10-2.041	Eligibility Requirements for the C.P.A. Examination	May 23, 2002
4 CSR 10-2.061	Requirements for an Initial Permit to Practice	May 23, 2002

Missouri Dental Board

4 CSR 110-2.131	Definition of a Public Health Setting	September 20, 2002
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Department of Mental Health**Certification Standards**

9 CSR 30-4.030	Certification Standards Definitions	July 11, 2002
9 CSR 30-4.031	Procedures to Obtain Certification for Centers	July 11, 2002
9 CSR 30-4.032	Administration	July 11, 2002
9 CSR 30-4.034	Personnel and Staff Development	July 11, 2002
9 CSR 30-4.035	Client Records of a Community Psychiatric Rehabilitation Program	July 11, 2002
9 CSR 30-4.039	Service Provision	July 11, 2002
9 CSR 30-4.042	Admission Criteria	July 11, 2002
9 CSR 30-4.043	Treatment Provided by Community Psychiatric Rehabilitation Program	July 11, 2002
9 CSR 30-4.045	Intensive Community Psychiatric Rehabilitation	July 11, 2002

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9 CSR 45-5.060	Procedures to Obtain Certification	August 27, 2002
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Department of Public Safety**Office of the Director**

11 CSR 30-7.010	Motor Vehicle Window Tinting Permits	August 30, 2002
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Missouri State Highway Patrol

11 CSR 50-2.320	School Bus Inspection	May 31, 2002
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Department of Revenue**Director of Revenue**

12 CSR 10-24.190	Drivers License Retesting Requirements After a License, School Bus Permit or Temporary Instruction Permit Expires	October 10, 2002
12 CSR 10-24.326	Third Party Tester and Examiner Sanction and Hearing Guidelines	October 26, 2002
12 CSR 10-41.010	Annual Adjusted Rate of Interest	June 29, 2002

Department of Social Services**Division of Family Services**

13 CSR 40-30.020	Attorney Fees and Guardian <i>Ad Litem</i> Fees in Termination of Parental Rights Cases	August 22, 2002
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Missouri Board of Nursing Home Administrators

13 CSR 73-2.015	Fees	June 29, 2002
13 CSR 73-2.070	Examination	June 29, 2002

Department of Health and Senior Services

Office of the Director

19 CSR 10-4.040 Definition of a Public Health SettingSeptember 20, 2002

Division of Administration

19 CSR 25-38.020 Laboratory Fee for Tuberculosis TestingAugust 24, 2002

Missouri Health Facilities Review Committee

19 CSR 60-50.200 Purpose and StructureJune 29, 2002

19 CSR 60-50.200 Purpose and StructureJune 29, 2002

19 CSR 60-50.300 Definitions for the Certificate of Need ProcessJune 29, 2002

19 CSR 60-50.300 Definitions for the Certificate of Need ProcessJune 29, 2002

19 CSR 60-50.310 Guidelines for Specific Health ServicesJune 29, 2002

19 CSR 60-50.400 Letter of Intent ProcessJune 29, 2002

19 CSR 60-50.400 Letter of Intent ProcessJune 29, 2002

19 CSR 60-50.410 Letter of Intent PackageJune 29, 2002

19 CSR 60-50.420 Application ProcessJune 29, 2002

19 CSR 60-50.420 Review ProcessJune 29, 2002

19 CSR 60-50.430 Application PackageJune 29, 2002

19 CSR 60-50.430 Application PackageJune 29, 2002

19 CSR 60-50.440 Criteria and Standards for Hospital and Freestanding Health ServicesJune 29, 2002

19 CSR 60-50.440 Criteria and Standards for Equipment and New HospitalsJune 29, 2002

19 CSR 60-50.450 Criteria and Standards for Long-Term CareJune 29, 2002

19 CSR 60-50.450 Criteria and Standards for Long-Term CareJune 29, 2002

19 CSR 60-50.460 Criteria and Standards for Other Health Services and Emerging TechnologyJune 29, 2002

19 CSR 60-50.460 Criteria and Standards for Evolving TechnologyJune 29, 2002

19 CSR 60-50.470 Criteria and Standards for Financial FeasibilityJune 29, 2002

19 CSR 60-50.470 Criteria and Standards for Financial FeasibilityJune 29, 2002

19 CSR 60-50.480 Criteria and Standards for AlternativesJune 29, 2002

19 CSR 60-50.500 Additional InformationJune 29, 2002

19 CSR 60-50.500 Additional InformationJune 29, 2002

19 CSR 60-50.600 Certificate of Need DecisionsJune 29, 2002

19 CSR 60-50.600 Certificate of Need DecisionsJune 29, 2002

19 CSR 60-50.700 Post-Decision ActivityJune 29, 2002

19 CSR 60-50.700 Post-Decision ActivityJune 29, 2002

19 CSR 60-50.800 Meeting ProceduresJune 29, 2002

19 CSR 60-50.800 Meeting ProceduresJune 29, 2002

19 CSR 60-50.900 AdministrationJune 29, 2002

19 CSR 60-50.900 AdministrationJune 29, 2002

19 CSR 90-1.010 DefinitionsAugust 27, 2002

19 CSR 90-1.020 Eligibility and Application ProcessAugust 27, 2002

19 CSR 90-1.030 General Payment ProvisionsAugust 27, 2002

19 CSR 90-1.040 Claimant's ResponsibilitiesAugust 27, 2002

19 CSR 90-1.050 Process for Reenrollment into the ProgramAugust 27, 2002

19 CSR 90-1.060 Authorized AgentAugust 27, 2002

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19 CSR 90-1.080 Termination from the ProgramAugust 27, 2002

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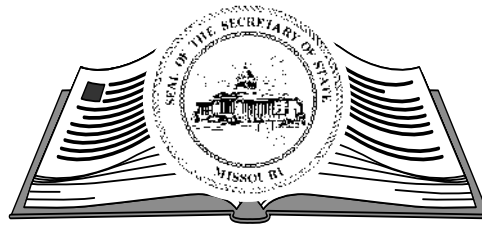
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